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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~1119.~~ 459

THE ST. LOUIS SMELTING AND REFINING COMPANY, PLAINTIFF IN ERROR.

vs.

SARAH RAY, C. CHRISTOPHER, C. A. LOCK, AND F. F. BRUNE.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF COLORADO.

FILED 5th FEBRUARY, 1880.

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same being one of the regular juridical days of the said May Term, A. D. 1879, of said court, the following proceedings *inter alia* were had and entered of record in said court, to wit:

Order: Defendants file Petition and Bond for Removal.

ST. LOUIS SMELTING AND REFINING COMPANY
113 *vs.* } Ejectment.
RAY *et als.*

At this day come said defendants, by D. E. Parks, Esq., their attorney, and by leave of court file the petition and bond for the removal of this cause to the Circuit Court of the United States for the District of Colorado.

Afterwards and on this same day, to wit, the 20th day of May, the same being one of the regular juridical days of the said May Term, A. D. 1879, of said court, the following proceedings
8 *inter alia* were had and entered of record in said court, to wit:

Order: Of Removal.

ST. LOUIS SMELTING AND REFINING COMPANY
113 *vs.* } Ejectment.
RAY *et als.*

At this day come said defendants, by D. E. Parks, Esq., their attorney, and present to the court here their petition and bond for the removal of this cause to the Circuit Court of the United States for the District of Colorado.

And the court having examined the same, doth accept said petition and bond, and doth order that said cause be, and the same hereby is, removed to said Circuit Court.

And let the clerk of this court make a transcript of all papers filed in this action, together with all orders of court had and entered of record herein, and certify the same to said Circuit Court with all convenient speed upon payment of the costs remaining due in this behalf.

Certificate of Clerk.

STATE OF COLORADO, } *ss:*
County of Lake, }

I, Charles W. Taylor, clerk of the District Court in and for said county in the State aforesaid, do hereby certify that the above and foregoing is a true, correct, and complete transcript and copy of all orders had and entered of record in a certain cause in said court lately depending, wherein the St. Louis Smelting and Refining Com-
9 pany was plaintiff and ..... Ray *et al.* were defendants.

I do further certify that the papers hereto attached and mark-

ed "A," "B," "C," "D," "E," "F," "G," and "H," respectively, are true, correct, and complete copies of all of the original papers on file in my office in said cause.

In witness whereof I have hereunto subscribed my name and the seal of said court, affixed at Leadville, in said county and State, this 4th day of October, A. D. 1879.

{District Court Seal, Lake County.} (Signed) CHAS. W. TAYLOR,
Clerk.

By WILLIAM RAYMOND,
Deputy.

"A."

Complaint.

STATE OF COLORADO, } ss:
County of Lake, }

In the District Court of the Fourth Judicial District of Colorado sitting in and for the county of Lake.

THE ST. LOUIS SMELTING AND REFINING COMPANY, Plaintiff,
vs.
..... RAY, C. CHRISTOPHER, C. A. LACK, F. F. BRUNE, Defendants.

The plaintiff complains of the defendant, and states that it, the said plaintiff, is a corporation duly organized, created, and incorporated under and by virtue of the laws of the State of Missouri, with power to purchase, own, and hold real estate. That it is the owner in fee and entitled to the possession of the following described real estate, situate in the county of Lake and State of Colorado, to wit: Lots number seven (7) and eight (8) in block number two (2), as shown upon a map and plat of town lots made by the plaintiff, entitled The St. Louis Smelting and Refining Company's Addition to the City of Leadville, which map and plat is duly filed in the office of the clerk and recorder of said county, and that the defendants wrongfully withhold said premises from the plaintiff, to its damage in the sum of one thousand dollars.

The plaintiff therefore *therefore* asks judgment against the defendant for the recovery of the possession of said premises, for said premises for said sum of one thousand dollars, its damages for the detention of the same, and for its costs herein.

THOMSON, HEREFORD & SAYER,
Att'ys for Plaintiff.

(Endorsed:) 113; St. Louis S. & R. Co. *vs.* Ray, Christopher, Lack, and Brune; Complaint; filed April 23d, 1879; Chas. W. Taylor, *clerk;* Thompson, Hereford & Sayer, plff. att'ys.

11 "B."

Security for Costs.

STATE OF COLORADO, } ss:
County of Lake, }

In the District Court of the 4th Judicial District of the State of Colorado, sitting within and for the county of Lake.

In the matter of ST. LOUIS SMELTING and REFINING COMPANY
vs.
..... RAY, CHRISTOPHER, C. A. LACK, AND F. F. BRUNE.

I do hereby enter myself security for costs in this case, and acknowledge myself bound to pay or cause to be paid all costs which may accrue in this action, either to the opposite parties or to any of the officers of this court, pursuant to the laws of the State of Colorado.

Dated this 23 day of April, A. D. 1879.

WILLIAM N. LAKER.

(Endorsed:) 113; In the District Court, Lake county; security for costs; St. Louis S. & R. Co. *vs.* ..... Ray, Christopher, C. A. Lack, and F. F. Brune; approved by me and filed in the office of the District Court this 23d day of April, 1879; Chas. W. Taylor, *clerk*.

"C."

13 STATE OF COLORADO, } ss:
County of Lake, }

In the District Court of the Fourth Judicial District of the State of Colorado, in and for the county of Lake.

THE SAINT LOUIS SMELTING AND REFINING COMPANY, Plaintiff,
vs.
---- RAY, C. CHRISTOPHER, C. A. LACK, and F. F. BRUNE, Defendants.
} Summons.

The people of the State of Colorado send greeting to the said defendants above named:

You are hereby required to appear in an action brought against you by the above-named plaintiff in the District Court of the fourth judicial district of the State of Colorado, in and for the county of Lake, and to answer the complaint filed therein within ten days, exclusive of the day of service, if served within this county; or if served out of this county but in this district, within twenty days; otherwise within forty days; or judgment by default will be taken against you, according to the prayer of the complaint.

The said action is brought to recover possession of the following

described real estate, situate in the county of Lake and State of Colorado, to wit: Lots number seven (7) and eight (8) in block number two (2) of the St. Louis Smelting and Refining Company's Addition to the City of Leadville, and judgment for the sum of one thousand dollars damages for the detention, as will more fully appear by the complaint on file herein, to which reference is here made.

And you are hereby notified that if you fail to appear and answer to the said complaint as above required, the said plaintiff will apply to the court for the relief demanded in the complaint.

Given under my hand and the seal of the District Court of the fourth judicial district of the State of Colorado, in and for the county of Lake, this 23rd day of April, A. D. 1879.

[L. S.] CHAS. W. TAYLOR, *Clerk.*

14 (Endorsed:) No. 113; St. Louis S. & R. Co., plaintiff, *vs.* ..... Ray *et als.*, defendants; Summons, District Court; filed this 26th day of April, A. D. 1879; Charles W. Taylor, *clerk.* Sheriff's fees: Service, $3.00; mileage, $1.00; return, $ .75,—$4.75, pd. Thomson, Hereford & Sayer, attorneys for plaintiff.

STATE OF COLORADO, } *ss:*
County of Lake, }

I do hereby certify that I have duly executed the within summons on this 24th day of April, A. D. 1879, by delivering to each of the within-named defendants, ... Ray, C. Christopher, C. A. Lack, F. F. Brune, a true copy thereof, and at the same time reading to each of them this the original summons; done at Leadville, county and State aforesaid.

L. R. TUCKER, *Sheriff.*
By W. H. BRIGHT, *Under Sheriff.*

"D."

15 *Demurrer to Complaint.*

STATE OF COLORADO, } *ss:*
Lake County, }

In the District Court of the 4th Judicial ..... held within and for said county. To the May Term, A. D. 1879.

THE SAINT LOUIS SMELTING AND REFINING COMPANY, Plaintiff, *agst.* ..... RAY, C. CHRISTOPHER, C. A. LACK, F. F. BRUNE, Defendants. } Demurrer.

The above-named defendants demur to the complaint of the above-named plaintiff, and for cause of demurrer allege:

I. That the said complaint does not state facts sufficient cause of action.

YATES & PARKS,
Def'ts Att'ys.

(Endorsed:) G. D. 113; District Court; St. Louis Smelting and Refining Co. *vs.* Sarah Ray *et al;* Demurrer; filed May 3rd, 1879; Chas. W. Taylor, *clerk;* Yates & Parks, def'ts att'ys.

16 *Stipulation as to Answer.*

District Court of Lake County.

ST. LOUIS S. & R. Co., Pl'ff,
vs.
RAY *et al.*, Def'ts.

It is stipulated and agreed that the time for filing answer in this cause may be extended until 6 May of instant, provided that answer shall be filed for all the defendants 2 o'clock P. M. of that day.

THOMSON, HEREFORD & SAYER,
Att'y for Pl'ff.

(Endorsed) No. 113; District Court 4 judicial district; The Saint Louis Smelting and Refining Co., pl'ff, *vs.* —— Ray, C. Christopher, C. A. Lack & F. F. Brune, def'ts; stipulation to extend time to answer to Tuesday, May 6, 1879; filed May 5th, 1879; Chas. W. Taylor, clerk; George C. Bates, def'ts' att'y.

"F."

Answer.

STATE OF COLORADO, *County of Lake,* } *ss:* 113.

In the District Court of the 4th Judicial District.

17 THE ST. LOUIS SMELTING AND REFINING COMPANY, Pl'ff,
vs.
—— RAY, C. CHRISTOPHER, C. A. LACK, and F. F. BRUNE, Def'ts. } Ejectment.

Now come the said several defendants, in their own proper person, and pray the court to enter their appearance, and for answer to complaint, they deny:

1st. Each and every allegation in said complaint.

2nd. They specifically deny that the plaintiff is a body corporate legally created by and existing under the statutes of Colorado.

3rd. These defendants deny that the plaintiff is now, was at the commencement of this suit, or ever has been the owner in fee-simple of lots numbered 7 and 8, in block number 2, of the St. Louis Smelting and Refining Company's Addition, as specified in complaint.

4th. And said defendants deny that plaintiff had at the commencement of this suit, has now, or ever had the right of possession or

actual possession in fee-simple of said premises described in said complaint, or any part thereof.

5. Defendants deny that they, or either of them, ever entered into the lawful possession of plaintiffs in said premises in fee-simple and ousted and ejected the plaintiff therefrom.

6th. And these defendants deny that they, or either of them, are now, or were at the commencement of this suit, in possession of the premises described in plaintiff's complaint.

And for a second defense to the complaint—

18 These defendants say that the plaintiff's sole claim to said premises, if any, is a patent for placer mines, dated November 5, 1878, to Stevens and Leiter, for mineral location 271, granted by the United States, which said patent for placer mining covers said premises, and which said patent No. 1 is null and void on its face, because issued in direct violation of the laws of the United States authorizing it—which limits all placer mining patents to 160 acres and no more.

2nd. And which said placer mining patent, granted under a special act of Congress for placer mining purposes and nothing else, conveys no rights to the surface lots, streets, alleys, houses, buildings on the surface, and no fee-simple.

3rd. And which said patent is made null and void, and all the rights of the patentees thereunder are forfeited and lost and have reverted to the United States by the abandonment, non-user, and perversion of the premises described therein to purposes of real-estate speculation and absolute non-user for placer mining purposes.

Wherefore defendants pray judgment against plaintiff for dismissal of this suit with their costs.

2nd. An injunction restraining plaintiff now and hereafter from prosecuting any suit in ejectment thereon.

3rd. That by the judgment and decree of this court said placer mining patent shall be adjudged to be null and void on its face, as contrary to the very statute of the United States under which it was issued.

19 CHARLES A. LACK.
C. CHRISTOPHER.
F. F. BRUNE.

LAKE COUNTY, *ss:*

Charles A. Lack, being sworn, deposes and says that he is one of the defendants in the above cause; that he has read the foregoing answer and knows the contents thereof; that the same is true of his own knowledge, except as to those matters and things therein stated to be on information and belief, and to those matters and things he believes it to be true.

CHARLES A. LACK.

Subscribed and sworn to before me this 6th day of May, A. D. 1879.

[L. S.] C. CHRISTOPHER,
Notary Public.

(Endorsed:) No. 113; The St. Louis Smelting and Refining Co., plaintiff, against —— Ray, C. Christopher, C. A. Lack and F. F. Brune, def'ts; Answer in *propria persona;* we hereby admit service of a copy of the within answer the 6th day of May, A. D. 1879, at 12 M. o'clock; filed May 6th, 1879; Chas. W. Taylor, cl'k; Thomson, Hereford & Sayer, att'ys for pl'ff.

20 "G."

Petition for Removal.

STATE OF COLORADO, } *ss:*
County of Lake, }

In the District Court of the Fourth Judicial District, held within and for the said county of Lake.

THE SAINT LOUIS SMELTING AND REFINING COMPANY, Plaintiff, *vs.* SARAH RAY, C. CHRISTOPHER, C. A. LACK, and F. F. BRUNE, Defendants. } Petition for removal of cause to the United States Circuit Court, District of Colorado.

To the honorable the said District Court:

The petition of Sarah Ray, C. Christopher, C. A. Lack, and F. F. Brune, the above-named defendants, respectfully shows to this honorable court that the matter and amount in dispute in the above-entitled suit exceeds, exclusive of costs, the sum or value of five hundred dollars ($500.00).

That the controversy in said suit is between citizens of different States, and that the said petitioners, at the time of the commencement of this suit, and still are citizens of the State of Colorado, and that the said plaintiff, the St. Louis Smelting and Refining Company,

21 was at the time of the commencement of this suit and still is a citizen of the State of Missouri, being a foreign corporation, organized and created under and by virtue of the laws of the State of Missouri, having its principal office and place of business at the city of St. Louis, in said State of Missouri.

And your petitioners offer herewith a bond with good and sufficient security for their entering in said Circuit Court of the United States on the first day of its next session a copy of the record in this suit, and for paying all costs that may be awarded by said Circuit Court if said court shall hold that this suit was wrongfully or improperly removed thereto.

Your petitioners therefore pray this honorable court to proceed no further herein, except to make the order of removal as required by law, and to accept the said surety and bond, and to cause the record herein to be removed into the said Circuit Court of the United States in and for the District of Colorado, and your petitioners will ever pray, &c.

YATES & PARKS,
Att'ys for Petitioners.

STATE OF COLORADO, } ss:
Lake County, }

Daniel E. Parks, being duly sworn, says he is one of the attorneys for the petitioners in the above-entitled cause and petition; that he has read the said petition and knows the contents thereof, and that the statements and allegations therein contained are true, as he verily believes.

D. E. PARKS.

22 Subscribed by the said D. E. Parks in my presence, and by him sworn to before me this 20th day of May, A. D. 1879.

CHAS. W. TAYLOR,
[L. S.] *Clerk Dist. Court.*

(Endorsed:) No. 113; The Saint Louis Smelting and Refining Company, pl'ff, *vs.* Sarah Ray *et al.;* Petition for Removal to Circuit Court U. S.; filed May 20th, 1879; Chas. W. Taylor, *clerk;* Yates & Parks, deft's atty's.

Bond on Removal.

Know all men by these presents: That Sarah Ray, as principal, and Joseph Milner, Anthony Start, and John Steel, as sureties, are held and firmly bound unto The St. Louis Smelting and Refining Company in the penal sum of five hundred (500) dollars, lawful money of the United States of America, for the payment whereof well and truly to be made unto the said St. Louis Smelting and Refining Company, its heirs and assigns and successors, we bind ourselves, our and each of our heirs, representatives, and assignees, jointly and severally, firmly by these presents.

Yet upon these conditions: The said Sarah Ray and others
23 having petitioned the District Court of Lake county, State of Colorado, for the removal of a certain cause therein pending, wherein The St. Louis Smelting and Refining Company is plaintiff and Sarah Ray and others are defendants, to the Circuit Court of the United States in and for the District of Colorado:

Now, therefore, if the said Sarah Ray and others, your petitioners, shall enter in the said Circuit Court of the United States on the first day of its next session a copy of the record in said suit, and shall well and truly pay all costs that may be awarded by said Circuit Court of the United States if said court shall hold the suit was wrongfully or improperly removed thereto, then this obligation to be void, otherwise to remain in full force and virtue.

Witness our hands and seals this 19th day of May, A. D. 1879.

SARAH RAY. [SEAL.]
JOSEPH MILLER. [SEAL.]
ANTHONY START. [SEAL.]
JOHN STEEL. [SEAL.]

STATE OF COLORADO, } ss:
Lake County, }

Sureties in the foregoing and annexed bond, being severally duly sworn, severally depose and say, and each for himself says, that he is a resident and property holder of said county and State; and that he signed the said bond as above, and is worth the amount of the penalty thereof over and above all his just debts and liabilities, besides his property exempt by law from execution.

24 Subscribed and sworn to before me this day of May, A. D. 1879.

(Endorsed:) No. 113; St. Louis Smelting & Refining Company, plff., *vs.* Sarah Ray *et al.;* Bond on Removal; filed May 20th, 1879; Charles W. Taylor, *clerk;* Yates & Parks, def'ts' att'ys.

(Endorsed on transcript:) No. 344; Circuit Court U. S.; St. Louis Smelting and Refining Co. *vs.* Ray *et al.;* Transcript from District Court of Lake county, Colo.; filed Oct. 7, 1879; (signed) Edward F. Bishop, *clerk;* presented by Patterson, for defendants.

Proceedings in U. S. Circuit Court.

And afterwards and on the same day, to wit, the 7th day of October, A. D. 1879, came the said defendants by T. M. Patterson, Esq., their attorney, and filed in said Circuit Court, and in said cause, their motion to strike said cause from the docket; and the said motion to strike from the docket is in words and figures as follows, to wit:

25 *Motion by Defts. to Strike Cause from Dockets.*

In the Circuit Court of the United States in and for the District of Colorado.

ST. LOUIS SMELTING AND REFINING COMPANY }
vs.
——— RAY *et al.* }

Comes now defendants by their attorneys, and, appearing for the purposes of this motion and for none other, move the court to strike the same from the docket of this court.

In support of this motion defendants, by their attorneys, show unto your Honor that upon the 20th day of A. D. 1879, the said cause was pending in the District Court of the fourth judicial district of Colorado, in and for Lake county; that on the same day a petition was filed praying a removal of this cause to the Circuit Court of the United States in and for the district of Colorado, the prayer of which petition was granted, and a bond filed in accordance with the order of the court; that the plaintiff in said cause, without the privity, knowledge, or consent of the defendants, procured the record of said

cause from the clerk of the District Court of the fourth judicial district of Colorado in and for Lake county, and filed the same with the clerk of this court, and caused the said cause to be docketed in this court without the knowledge or consent of defendants.

(Signed) MARKHAM, PATTERSON & SHANNON,
Attys. for Defendants.

26 STATE OF COLORADO, } *ss:*
County of Arapahoe, }

Henry W. Shannon, being first duly sworn, deposes and says that he is the agent and attorney of the defendants in above cause; that neither of the said defendants are within the county of Arapahoe, and for that reason he makes this affidavit; that he knows the contents of the foregoing motion, and that the facts therein set forth are true of his own knowledge.

(Signed) HENRY W. SHANNON.

Subscribed and sworn to before me this seventh day of October, A. D. 1879.

(Signed) WILLIAM M. MAGUIRE,
[NOTARIAL SEAL.] *Notary Public.*

(Endorsed:) No. 344, Circuit Court U. S.; St. Louis Smelting and Refining Company *vs.* Ray *et al.*; motion to strike cause from the docket; filed October 7, 1879; (signed) Edward F. Bishop, clerk; Markham, Patterson & Shannon, attorneys for defendants.

And afterwards and on, to wit, the 8th day of October, A.
27 D. 1879, the same being one of the regular juridical days of the October Term A. D. 1879, of said court—present: the Honorable Moses Hallet, district judge—the following proceedings *inter alia* were had and entered of record in said court and in said cause, to wit:

Order: Motion to Strike Denied.

344	THE SAINT LOUIS SMELTING AND REFINING COMPANY, *vs.* RAY, C. CHRISTOPHER, C. A. LACK, and F. F. BRUNE.	For possession, &c. From District Court, Lake county.

At this day comes the said plaintiff, by W. S. Decker, Esq., its attorney, and the said defendants, by T. M. Patterson, Esq., their attorney, for the purpose of this motion only also come.

And the motion of the said defendants to strike this cause from the docket of the court coming on now to be heard, and the court being now sufficiently advised in the premises:

It is ordered by the court, for good and sufficient reasons to the court appearing, that the said motion be denied.

And afterwards and on the same day, to wit, the 8th day of October, A. D. 1879, came the said defendants, by T. M. Patterson, Esq., their attorney, and filed in said Circuit Court and in said cause their motion for judgment for costs; and the said motion for judgment for costs is in words and figures as follows, to wit:

28 *Motion for Judgment for Costs.*

In the Circuit Court of the United States for the District of Colorado.

THE ST. LOUIS SMELTING AND REFINING COMPANY *vs.* ——— RAY *et al.* } Case No. 344.

Come now the defendants in each of the above-entitled causes, and each set of defendants for themselves show unto the court that upon their petition, filed in the district of the fourth judicial district, in and for the county of Lake, the said causes and each of them were removed to this court, as more particularly appears in the records of said causes, now in file in this court; that long before the first day of the present term of this court the plaintiff in each of said causes, without giving notice orally or in writing to the defendants or any of them, procured from the clerk of the said District Court transcripts of the records thereof, and filed the same with the clerk of this court, and caused the said causes to be entered upon the docket of this court; that each of the said sets of defendants, not knowing that it was the purpose or design of the plaintiff to so have said record filed and cause docketed, and believing that in any event it was necessary to the preservation of their rights to procure a copy of said record and file the same with the clerk of this court, they and each of them did procure such copy of record,

29 and pay to the clerk of the said District Court the lawful fees therefor; that is, in case No. 344, the defendants therein paid the sum of eleven & $\frac{60}{100}$ dollars; in case No. 345, seventeen & $\frac{80}{100}$ dollars; and in case No. 346, twelve & $\frac{20}{100}$ dollars; and in case No. 326, eleven dollars; all of which will more fully appear in the record of each of said causes, the same being on file in this court.

Wherefore the defendants in each said causes, respectively, pray that the plaintiff in each may be adjudged to pay into the defendants in each the said sum of money so laid out and expended, and the costs of this proceeding.

(Signed) MARKHAM, PATTERSON & SHANNON,
Att'ys for each of Defendants.

(Endorsed:) Nos. 344; Circuit Court U. S.; St. Louis S. & R.

Co. *vs.* —— Ray *et al.*; motion for judgment for costs; filed Oct. 8, 1879; (signed) Edward F. Bishop, *clerk*; Markham, Patterson & Shannon, att'ys for def'ts.

And afterwards and on, to wit, the 11th day of October, A. D. 1879, the same being one of the regular juridical days of the October Term, A. D. 1879, of said court—present: the Honorable Moses Hallett, district judge—the following proceedings *inter alia* were had and entered of record in said court and in said cause, to wit:

30 *Order: as to Taxing Costs.*

THE ST. LOUIS SMELTING AND REFINING COMPANY *vs.* SARAH RAY, C. CHRISTOPHER, *et al.* } For possession, &c. From Dist. Court, Lake county.

At this day comes the said plaintiff, by G. G. Symes, Esq., its attorney, and the said defendants, by T. M. Patterson, Esq., their attorney, also come.

And the motion of the said defendants for a rule on the said plaintiff requiring to repay to the said defendants the amount expended by them in procuring a copy of the record and proceedings heretofore had herein in the District Court of Lake county, coming on now to be heard, is argued by counsel, and the court being now sufficiently advised in the premises:

It is ordered that the cost of the transcript heretofore filed by the said plaintiff herein, and the filing thereof be not recoverable, and that the cost of the transcript filed by the said defendants be taxed in this cause to abide the event of the suit.

And afterwards and on, to wit, the 22nd day of October, A. D. 1879, came the said defendants, by T. M. Patterson, Esq., their attorney, and filed in said court and in said cause their answer to said plaintiff's complaint.

And the said answer is in words and figures as follows, to wit:

Answer.

31 In the Circuit Court of the United States, District of Colorado.

THE ST. LOUIS SMELTING AND REFINING COMPANY *vs.* ..... RAY, C. CHRISTOPHER, C. A. LACK, F. F. BRUNE.

The answer of the defendants ..... Ray, C. Christopher, C. A. Lack, and F. F. Brune: And the said defendants, answering the complaint in this case, for answer thereto—

Admit that the plaintiff was incorporated under the laws of the State of Missouri, but deny that the said plaintiff corporation has power to purchase, own, or hold real estate in the State of Colorado, as is alleged in the said complaint, and the defendants deny that the plaintiff is the owner in fee of the real estate described in the complaint, to wit, lots seven and eight, block two of the St. Louis Smelting and Refining Company's Addition to Leadville; and the defendants deny that the plaintiff is entitled to the possession of the said real estate; and the defendants deny that they wrongfully withhold said real estate from the plaintiff; and the defendants deny that the plaintiff has sustained damages in the amount alleged in the complaint; and deny that it has sustained damages in any sum whatever.

And for further answer in this behalf the defendants say that the said plaintiff ought not to have or maintain the aforesaid
32 action against the defendants, because they say that the plaintiff is a foreign corporation, incorporated under the laws of the State of Missouri, and that the certificate of incorporation of the said plaintiff is in words and figures as follows:

"STATE OF MISSOURI, } *ss:*
County of St. Louis, }

Be it remembered that on this 10th day of May, A. D. 1871, the undersigned, desirous of organizing a body corporate for the purposes hereinafter stated, in pursuance of chapters 62 and 69, title 24 of the General Statutes of the State of Missouri as constituted and revised by the General Assembly, do, by these presents, set forth and declare our articles and certificates of incorporation as follows:

This corporation shall be known and designated under the name and style of The St. Louis Smelting and Refining Company. The objects and purposes for which this corporation and company has been organized are for mining, smelting, and refining gold, silver, and other ores, metals, minerals, and mineral substances, and for purchasing, crushing, pulverizing, reducing, transporting, and working said ores, metals, and mineral substances, of preparing the same for market, sale, trade, or use, and of prospecting for, discovering, mining, and securing valuable mines and claims, and for purchasing, selling, and leasing mining property and other real estate, and of running, conducting, and carrying on all such mills, furnaces, work-
shops, and stores for supplying workmen and others as may
33 be convenient or useful in connection therewith; and also for establishing and carrying on whatsoever other business as may be convenient, or proper, or necessary to be done in connection with and for the success of said company's operations; and the main office or place of business of this corporation is to be in the city and county of St. Louis and State of Missouri, and in such other places and States as the business of said corporation may from time to time require. The capital stock of said corporation shall be two hundred and fifty thousand dollars, divided into twenty-five hundred shares of the par value of one hundred dollars each. The number of

directors is seven, and their names are Geo. H. Laker, Edwin Harrison, J. L. Howard, G. W. Chadburne, John B. Maude, Martin Collins, and W. L. Laker, all of the city and county of St. Louis and State of Missouri aforesaid, who shall hold their office until their successors are duly elected and qualified, and who shall cause books of subscription to the capital stock of said company to be opened at said company's office as aforesaid, and at such other place or places as may be designated by them, the said board of directors or corporators, which books shall be kept open for such time and under such rules as may be by them prescribed."

And the defendants allege that the said corporation, the St. Louis Smelting and Refining Company, was and is incompetent to acquire title to real estate in the State of Colorado, except such real estate as may be necessary or requisite for the transaction of its business as a smelting and *and* refining company; and the defendants allege that the real estate described in the complaint, to wit, lots seven and eight (7 and 8), block 2, was neither necessary or requisite to the
34 said company for the transaction of its said business; and the defendants further allege that the plaintiff did not procure or acquire the title to the said real estate, nor hold or possess the same for the purpose of the transaction of its business aforesaid, but, on the contrary, the defendants allege that the plaintiff aimed to procure the title to said real estate for the purpose of trading, selling, and speculating in the same, and for no other purpose whatever.

Whereefore the plaintiff did not acquire any title to the real estate described in the complaint, and has not any title thereto or interest therein.

(Signed) MARKHAM, PATTERSON, THOMAS & CAMPBELL,
Attorneys for Defendants.

(Endorsed:) No. 344, U. S. C. C. St. Louis Smelting and Refining Co. *vs.* ..... Ray, C. Christopher, *et al.;* Answer of the Defendants; filed Oct. 22, 1879; (signed) Edward F. Bishop, *clerk;* Markham, Patterson, Thomas and Campbell, for def'ts.

And afterwards and on, to wit, the 1st day of November,
35 A. D. 1879, came the said plaintiff, by G. G. Symes, Esq., its attorney, and filed in said court and in said cause its replication to the answer of the said defendants.

And the said replication is in words and figures as follows, to wit:

Replication.

In the Circuit Court of the United States for the District of Colorado, in the 8th Circuit.

THE SAINT LOUIS SMELTING AND REFINING COMPANY, Pl'ffs,
vs.
..... RAY, C. CHRISTOPHER, C. A. LACK, and F. F. BRUNE, Def'ts.
} No. 344.

The plaintiff replies to the answer of the defendants herein:

I. Plaintiff denies that it is incompetent to acquire title to real estate, or to hold or possess real estate in the State of Colorado, except such as may be necessary or requisite for the transaction of its business as a smelting and refining company. And plaintiff alleges that it is authorized under and by virtue of the statutes of the State of Missouri and its incorporation certificate, and under and by virtue of the statute of the State of Colorado it was, at the times mentioned in the complaint in this action, and ever since has been and now is, lawfully competent, authorized, and empowered to buy, sell, and hold and deal in, for any purpose whatever, all kinds of lands, mining property, and real estate.

36 II. And plaintiff denies that the real estate described in the complaint and answer herein was not, at the time it was purchased and became the property of plaintiff, necessary or requisite to the said company for the transaction of its business; and the plaintiff alleges that at the time it contracted for and purchased the said real estate it did so for the sole and only purpose of erecting smelting and reducing works thereon, and that in pursuance of such intention it built a large and valuable smelting and reducing works, known as the Harrison Reduction Works, upon the property mentioned and described in the complaint herein, and has ever since carried on the business of reducing and smelting silver ores in the said works upon said property. That at the time the plaintiff contracted to purchase the said property and proceeded to and did erect the said smelting and reducing works thereon, said property was necessary and useful for the purpose of carrying on the said smelting business, and there was not at said time any person or persons living upon or near the said real estate.

III. Plaintiff, for further reply, denies that it purchased or acquired the title to the said real estate for the purpose of trading, selling, or speculating with the same; but alleges that it purchased it, as aforesaid, for the sole and only purpose of carrying on its said reducing and smelting business.

(Signed) THOMSON & SAYER,
SYMES & DECKER,
Pl'ffs. Attys.

37 (Endorsed:) No. 344, U. S. C. C. St. L. S. & R. Co. *vs.* ..... Ray, Christopher, *et al;* Replication; filed Nov. 1, 1879; (sgd) Edward F. Bishop, *clerk;* G. G. Symes, for plff.

And afterwards and on, to wit, the 25th day of November, A. D. 1879, the same being one of the regular juridical days of the October Term, A. D. 1879, of said court—present, the Honorable Moses Hallett, district judge—the following proceedings *inter alia* were had and entered of record in said and in said cause, to wit:

Order: Jury Impanneled and Trial.

344 THE ST. LOUIS SMELTING AND REFINING COMPANY *vs.* SARAH RAY, C. CHRISTOPHER, *et al.* } For possession of specific real property, &c.

At this day comes the said plaintiff by G. G. Symes, Esq., its attorney, and the said defendants by T. M. Patterson, Esq., their attorney, also come.

And thereupon comes a jury, to wit:

[1] J. M. McKeen,	[5] Chas. W. Raymer,	[9] Adison Avery,
[2] James Simmons,	[6] G. S. Allsebrook,	[10] James B. Lycan,
[3] Thomas Blythe,	[7] M. H. Post,	[11] Asa M. Harner,
[4] Nathan Haskins,	[8] William Germain,	[12] Bartholomew Robbins,

38 good and lawful men. And they are duly selected and tried, impanneled and sworn to well and truly try the issues herein joined and a true verdict give according to the evidence.

And thereupon comes the evidence, the hearing of which is continued to the hour of adjournment, when the further hearing is postponed until to-morrow, the 26th inst., at the hour of nine o'clock A. M.

And the said jurors being each duly cautioned by the court not to converse among themselves, or with others, touching this cause, or the matters at issue herein, or the evidence heard, or part thereof, nor to listen to such conversation of others, or to read or hear read any publication touching the same, are permitted to separate to meet the court as aforesaid.

And afterwards and on, to wit, the 26th day of November, A. D. 1879, the same being one of the regular juridical days of the October Term, A. D. 1879, of said court—present: the Honorable Moses Hallett, district judge—the following proceedings *inter alia* were had and entered of record in said court and in said cause, to wit:

Order: Verdict.

344 THE ST. LOUIS SMELTING AND REFINING COMPANY *vs.* SARAH RAY, C. CHRISTOPHER, *et al.* } For possession of specific real property, &c.

At this day come again the said parties by their attorneys respectively:

And the jurors heretofore impanneled and sworn in this cause being now all here present and in the jury box, the hearing of
39 the evidence herein is resumed.

And the said jurors having heard the evidence produced herein, as well by the said defendants as on behalf of the said plaintiff, and the instructions of the court, upon their oaths do say they find the issues herein joined for the said defendants.

And afterwards and on, to wit, the 4th day of December, A. D. 1879, the same being one of the regular juridical days of the October Term, A. D. 1879, of said court—present: the Honorable Moses Hallett, district judge—the following proceedings *inter alia* were had and entered of record in said court and in said cause, to wit:

Order: Judgment for Defendants.

THE ST. LOUIS SMELTING AND REFINING COMPANY 344 *vs.* SARAH RAY, C. CHRISTOPHER, C. A. LACK, and F. F. BRUNE.	For possession of specific real property and for damages. From District Court, Lake county.

At this day come the said defendants by V. D. Markham, Esq., their attorney, and move the court for judgment on the verdict of the jury herein.

Wherefore it is considered by the court that the said defendants go hence hereof without day, and have and recover of and from the said plaintiff their costs by them in this behalf laid out and expended, and have execution therefor.

40 And afterwards and on, to wit, the 5th day of January, A. D. 1880, came again the said plaintiff by its attorney as aforesaid, and filed in said court and in said cause its bill of the exceptions reserved by it upon the trial of the issues herein joined.

And the said bill of exceptions is in words and figures as follows, to wit:

41 *Bill of Exceptions.*

UNITED STATES OF AMERICA,
District of Colorado.

In the Circuit Court of the United States for the District of Colorado, in the 8th Judicial Circuit, at the General Term thereof, begun and holden in the city of Denver, in said district, on the day of October, A. D. 1879.

Present: Hon. Moses Hallett, district judge, presiding.

THE ST. LOUIS SMELTING AND REFINING COMPANY, Pltff,
vs.
MRS. SARAH RAY *et al.*, Defts.

Be it remembered, that on the trial of this cause, during the Gen-

eral Term of this court, to wit, on the 25th day of November, A. D. 1879, a jury having been duly empanelled and sworn, the plaintiff, to maintain the issues on its part, gave in evidence as follows; that is to say:

Plaintiff, by its counsel, offered in evidence patent from the United States to Thomas Starr, dated March 29th, A. D. 1879, (marked Exhibit "A,") which is in the words and figures following, to wit:

GENERAL LAND OFFICE, No. 3117. } Mineral Certificate No. 182.

42 The United States of America to all to whom these presents shall come, greeting:

Whereas, in pursuance of the provisions of the Revised Statutes of the United States, chapter six, title thirty-two, there have been deposited in the General Land Office of the United States the plat and field-notes of survey of the placer mining claim of Thomas Starr, accompanied by the certificate of the Register of the Land Office at Fairplay, in the State of Colorado, whereby it appears that in pursuance of the said Revised Statutes of the United States the said Thomas Starr did, on the 6th day of March, A. D. 1879, enter and pay for said claim or premises, being mineral entry number one hundred and eighty-two (182) in the series of said office designated by the Surveyor General as lot number two hundred and fifty-five (255), embracing a portion of the unsurveyed public domain in the California Mining District, in the county of Lake and State of Colorado, in the district of lands subject to sale at Fairplay, containing one hundred and sixty-four (164) acres and sixty-one hundredths ($\frac{61}{100}$) of an acre of land, more of less, and according to the returns on file in the General Land Office bounded, described, and platted as follows, with magnetic variation at fifteen (15) degrees east, to wit:

Beginning at corner No. 1, a granite rock 14 x 10 x 5 inches in size marked "I–225," from which U. S. locating monument No. 1 bears south eighty-nine (89) degrees forty-five (45) minutes east at the distance of four hundred and eighteen (418) feet; thence from

43 said corner No. 1 south seventeen (17) degrees fifty (50) minutes east three hundred and fifty-seven (357) feet to road, ten hundred and forty (1040) feet to road, eleven hundred and seventy (1170) feet to bank of placer works, twelve hundred and eighty (1285) feet to California Gulch Creek, fourteen hundred (1400) feet to bank of placer works, fourteen hundred and thirty-seven (1437) feet to corner No. 2, a granite rock 16 x 12 x 3½ inches in size marked "II–255"; thence north sixty-three (63) degrees thirty (30) minutes east five hundred and fifteen (515) feet to corner No. 3, a granite rock 16 x 8 x 8 inches in size marked "III–255," the same being corner No. 3 of survey No. 158, patented to the Oro Ditch and Fluming Company with their placer claim; thence north sixty-eight (68) degrees east two hundred and eighty-nine and five-tenths ($289\frac{5}{10}$) feet to

corner No. 4, a granite rock 19 x 10 x 4 inches in size marked "IV–255," the same being corner No. 4 of said survey No. 158; thence north eighty-four (84) degrees twenty-eight (28) minutes east one hundred and seventy-nine (179) feet to corner No. 5, a granite rock 18 x 10 x 6 inches in size marked "V–255"; thence south eighty-nine (89) degrees east two hundred and fifteen (215) feet to corner No. 6, a granite rock 18 x 10 x 5 inches in size marked "VI–255"; thence south eighty-two (82) degrees nineteen (19) minutes east two hundred and seventy-seven and five-tenths ($277\frac{5}{10}$) feet to corner No. 7, a granite rock 18 x 14 x 3½ inches in size marked "VII–255"; thence south seventy-seven (77) degrees forty-two (42) minutes east one hundred and sixty-nine and five-tenths ($169\frac{5}{10}$) feet to corner No.
44 8, a granite rock 18 x 10 x 6 inches in size marked "VIII–255"; thence south sixty-three (63) degrees thirty (30) minutes east three hundred and thirty-two (332) feet to corner No. 9, a granite rock 16 x 8 x 6 inches in size marked "IX–255"; thence south sixty-two (62) degrees fifty (50) minutes east one hundred and ninety-seven (197) feet to corner No. 10, a granite rock 16 x 14 x 6 inches in size marked "X–255"; thence north thirty-eight (38) degrees twenty (20) minutes east three (3) feet to bank of placer works, one hundred and three (103) feet to said creek, four hundred and fifty (450) feet to bank of placer works, five hundred and forty-four (544) feet to road, six hundred and twenty (620) feet to corner No. 11, a granite rock 18 x 9 x 6 inches in size marked "XI–255"; thence south sixty-two (62) degrees thirty (30) minutes east seventeen (17) feet to corner No. 12, a granite rock 16 x 9 x 8 inches in size marked "XII–255"; thence south forty-two (42) degrees fifty-five (55) minutes east three hundred and eighteen (318) feet to Oro Ditch, three hundred and forty-seven (347) feet cross ditch, seven hundred and seventy-four (774) feet to ditch, nine hundred and twenty-five (925) feet to bank of ditch, nine hundred and fifty (950) feet to corner No. 13, a porphyry rock 20 x 14 x 6 inches in size on south side of ditch marked "XIII–255"; thence south twenty-eight (28) degrees thirty (30) minutes east one hundred and fifty (150) feet to corner No. 14, a granite rock 15 x 7 x 5 inches in size marked "XIV–255"; thence north forty-nine (49) degrees thirty (30)
45 minutes east six (6) feet cross ditch, ninety-six (96) feet to road five hundred and ninety-eight (598) feet to corner No. 15, a granite rock 15 x 10 x 8 inches in size, marked "XV–255"; thence north forty-nine (49) degrees five (5) minutes west nine hundred and twenty (920) feet to ditch, ten hundred and eighty-eight (1088) feet to corner No. 16, a sandstone 24 x 14 x 6 inches in size, marked "XVI–255"; thence north twenty-six (26) degrees twenty-four (24) minutes east sixty-two (62) feet to ditch four hundred and eighty-six (486) feet to corner No. 17, a granite rock 14 x 10 x 3½ inches in size, marked "XVII–255," from which Mt. Elbert bears south forty-five (45) degrees twenty (20) minutes west; thence from said corner No. 17 north sixty-four (64) degrees west two hundred (200) feet to corner No. 18, a porphyry rock 21 x 12 x 3 inches in size, mark-

ed "XVIII–255"; thence north twenty-six (26) degrees east nine hundred and fifteen (915) feet to corner No. 19, a granite rock 20 x 8 x 4 inches in size, marked "XIX–255," from which a blazed pine twelve (12) inches in diameter marked "XIX–255" bears south fourteen (14) degrees twenty-eight (28) minutes east at the distance of thirty-two (32) feet and a blazed pine sixteen (16) inches in diameter marked "XIX–255" bears north fifty-seven (57) degrees twenty-five (25) minutes east at the distance of seventeen and five-tenths ($17\frac{5}{10}$) feet; thence from said corner No. 19 north seventy-five (75) degrees eighteen (18) minutes west nine hundred and eleven (911) feet to ditch ten hundred and twenty-seven (1027) feet to corner No. 20, a granite stone 20 x 8 x 4 inches in size, marked "XX–255"; thence north twenty-eight (28) degrees twenty (20) minutes west three hundred and seventy and four-tenths ($370\frac{4}{10}$) feet to corner No. 21, a granite rock 14 x 10 x 8 inches in size, marked "XXI–255"; thence north three (3) minutes east five hundred and eighty-five (585) feet to Stray Horse Creek six hundred and seven (607) feet to corner No. 22, a granite rock 14 x 9 x 6 inches in size, marked "XXII–255"; thence north fourteen (14) degrees seventeen (17) minutes west one hundred and thirty-six and ninety-four hundredths ($136\frac{94}{100}$) feet to corner No. 23, a granite rock 14 x 9 x 7 inches in size, marked "XXIII–255"; thence north sixty-two (62) degrees east one hundred and eighty (180) feet to road three hundred and thirty-three and five-tenths ($333\frac{5}{10}$) feet to corner No. 24, a granite rock 18 x 8 x 4 inches in size, marked "XXIV–255"; thence north sixty-eight (68) degrees thirty (30) minutes east twenty-five (25) feet to said Stray Horse Creek five hundred (500) feet to corner No. 25, a granite rock 18 x 12 x 10 inches in size, marked "25–255"; thence north seventy-five (75) degrees thirty-five (35) minutes east five hundred (500) feet to corner No. 26, a granite stone 18 x 9 x 7 inches in size, marked "26–255," from which a pine eighteen (18) inches in diameter, marked "26–255," bears south twenty-five (25) degrees east at the distance of nineteen (19) feet, and a pine tree ten (10) inches in diameter, marked "26–255," bears south fifty-nine (59) degrees forty-five (45) minutes west at the distance of fifteen (15) feet; thence from said corner No. 26 south sixty-nine (69) degrees fifty-one (51) minutes east five hundred (500) feet to
47 corner No. 27, a granite rock 18 x 9 x 4 inches in size, marked "27–255"; thence south seventy (70) degrees east five hundred (500) feet to corner No. 28, a granite rock 16 x 8 x 6 inches in size, marked "28–255"; thence north thirty-nine (39) degrees thirty (30) minutes west five hundred (500) feet to corner No. 29, a granite rock 15 x 7 x 6 inches in size, marked "29–255," from which a pine twelve (12) inches in diameter, marked "29–255," bears north eighty-two (82) degrees east at the distance of sixty-five (65) feet, and a pine sixteen (16) inches in diameter, marked "29–255," bears north forty-six (46) degrees fifty (50) minutes east at the distance of sixty-one (61) feet; thence from said corner No. 29 north seventy (70) degrees west five hundred (500) feet to corner No. 30, a granite

rock 21x11x5 inches in size, marked "30–255"; thence north sixty-nine (69) degrees fifty-one (51) minutes west five hundred (500) to corner No. 31, a granite rock 18x12x3½ inches in size, marked "31–255"; thence south seventy-five (75) degrees thirty-five (35) minutes west five hundred (500) feet to corner No. 32, a granite stone 18x10x3 inches in size in mound of stones marked "32–255"; thence south sixty-eight (68) degrees thirty (30) minutes west five hundred (500) feet to corner No. 33, a granite rock 21x7x3 inches in size, marked "33–255"; thence south sixty-two (62) degrees west one hundred and fourteen (114) feet to corner No. 34, a granite rock 18x10x8 inches in size, marked "34–255"; thence north fourteen (14) degrees seventeen (17) minutes west eighty-nine and thirty-three hundredths (89_{100}^{33}) feet to corner No. 35, a granite rock 21x8x7 inches in size in mound of
48 stones marked "35–255," from which a mound of stones on Mt. Elbert bears south forty-two (42) degrees fifty-eight (58) minutes west; thence from said corner No. 35 north thirty-one (31) degrees fifty-five (55) minutes west three hundred and twenty-eight and five-tenths (328_{10}^{5}) feet to corner No. 36, a granite rock 18x6x6 inches in size, marked "36–255"; thence north fourteen (14) degrees fourteen (14) minutes west two hundred and forty and eight-tenths (240_{10}^{8}) feet to corner No. 37, a granite rock 16x8x6 inches in size, marked "37–255"; thence north two (2) degrees east four hundred and twenty-four (424) feet to corner No. 38, a granite rock 14x10x3 inches in size, marked "38–255"; thence north two (2) degrees thirty-five (35) minutes east four hundred and forty-two (442) feet to corner No. 39, a granite rock 14x9x4 inches in size, marked "39–255"; thence north ten (10) degrees fifty (50) minutes east five hundred and sixty and seven-tenths (560_{10}^{7}) feet to corner No. 40, a granite rock 14x8x5 inches in size, marked "40–255"; thence north ten (10) degrees thirty-seven (37) minutes east eight hundred and forty-one (841) feet to corner No. 41, a granite rock 15 x 8 x 4 inches in size, marked "41–255"; thence north thirty-two (32) degrees seven (7) minutes east four hundred and eighty-two and two-tenths (482_{10}^{2}) feet to corner No. 42, a granite rock 18 x 10 x 3 inches in size, marked "42–255"; thence north forty-nine (49) degrees thirteen (13) minutes east one hundred and fifty-five and five-tenths (155_{10}^{5}) feet to corner No. 43, a granite rock 17 x 10 x 3 inches in size, marked "43–255"; thence north seventy-eight (78) degrees forty-two (42) minutes east one
49 hundred and forty-two (142) feet to corner No. 44, a granite rock 18x8x4 inches in size, marked "44–255"; thence north fifty-five (55) degrees east one hundred and forty-one (141) feet to corner No. 45, a granite rock 20x8x8 inches in size, marked "45–255," from which a blazed pine fifteen (15) inches in diameter, marked "45–255," bears south thirty-three (33) degrees west at the distance of fifty-three and five-tenths (53_{10}^{5}) feet, and a blazed pine sixteen (16) inches in diameter, marked "45–255," bears south thirty-eight (38) degrees forty-six (46) minutes east at the distance of twenty-four (24)

feet; thence from said corner No. 45 north fifty-nine (59) degrees forty-two (42) minutes east one hundred (100) feet to corner No. 46, a granite rock 16 x 9 x 4 inches in size, marked "46–255"; thence south seventy (70) degrees eight (8) minutes east two hundred and forty-nine and five-tenths ($249\frac{5}{10}$) feet to corner No. 47, a granite rock 16 x 8 x 3 inches in size, marked "47–255"; thence north fifty (50) degrees east one hundred and sixty-six and five-tenths ($166\frac{5}{10}$) feet to corner No. 48, a granite rock 22x 9 x 8 inches in size, in mound of stone marked "48–255"; thence south eighty (80) degrees ten (10) minutes east one hundred and eighty (180) feet to corner No. 49, a granite rock 18 x 10 x 4 inches in size, marked "49–255"; thence south seventy-four (74) degrees fifteen (15) minutes east ninety-seven (97) feet to corner No. 50, a granite rock 18 x 9 x 9 inches in size, marked "50–255"; thence south forty (40) degrees
50 twenty-eight (28) minutes east one hundred and twenty-five (125) feet to corner No. 51, a granite rock 18 x 10 x 9 inches in size, marked "51–255"; thence north thirty (30) degrees fifty-six (56) minutes east twenty (20) feet to creek forty-nine (49) feet, cross creek fifty (50) feet to corner No. 52, a granite rock 19 x 10 x 4 inches in size, in mound of stones marked "52–255"; thence north forty-three (43) degrees thirty-two (32) minutes west one hundred and fifty (150) feet to corner No. 53, a granite rock 17 x 9 x 7 inches in size in mound of stone marked "53–255"; thence north seventy-four (74) degrees fifteen (15) minutes west ninety-seven (97) feet to corner No. 54, a granite rock 18 x 10 x 5 inches in size, marked "54–255"; thence north eighty (80) degrees ten (10) minutes west one hundred and eighty (180) feet to corner No. 55, a granite rock 14 x 10 x 6 inches in size, marked "55–255"; thence south fifty (50) degrees west one hundred and sixty-six and five-tenths ($166\frac{5}{10}$) feet to corner No. 56, a granite rock 16 x 8 x 5 inches in size, marked "56–225"; thence north seventy (70) degrees eight (8) minutes west two hundred and forty-nine and five-tenths ($249\frac{5}{10}$) feet to corner No. 57, a granite rock 15 x 8 x 7 inches in size, marked "57-255"; thence south seventy-two (72) degrees fifty-four (54) minutes west twenty-eight and five-tenths ($28\frac{5}{10}$) feet to corner No. 58, a granite rock 14 x 10 x 4 inches in size, marked "58-255"; thence south fifty-seven (57) degrees west one hundred and twenty-six (126) feet to corner No. 59, a granite rock 16 x 9 x 7 inches in size, marked "59–255"; thence south forty-four (44) degrees west sixty-nine (69)
51 feet to corner No. 60, a granite rock 14 x 10 x 4 inches in size, marked "60-255"; thence south sixty-five (65) degrees ten (10) minutes west seventy-five (75) feet to corner No. 61, a granite rock 15 x 9 x 6 inches in size, in mound of stone marked "61-255"; thence south eighty-nine (89) degrees fifty-two (52) minutes west eighty-one (81) to corner No. 62, a granite rock 15 x 8 x 6 inches in size, marked "62-255"; thence south sixty-two (62) degrees fifty (50) minutes west seventy (70) feet to corner No. 63, a granite rock 14 x 10 x 8 inches in size, marked "63-255"; thence south thirty-five (35) degrees twenty-four (24) minutes west

fifty-four and five-tenths (54_{10}^{5}) feet to corner No. 64, a granite rock 14 x 8 x 7 inches in size, marked "64–255"; thence south fifty-six (56) degrees twenty (20) minutes west one hundred and four (104) feet to corner No. 65, a granite rock 15 x 10 x 3 inches in size, marked "65–255"; thence south thirty-nine (39) degrees west one hundred and ninety-two (192) feet to corner No. 66, a granite rock 17 x 9 x 4 inches in size, in mound of stone marked "66–255"; thence south twenty-seven (27) degrees thirty-six (36) minutes west two hundred and ninety-two and five-tenths (292_{10}^{5}) feet to corner No. 67, a granite rock 17 x 9 x 6 inches in size, marked "67–255"; thence south twenty (20) degrees forty (40) minutes west one hundred and fifty-seven and four-tenths (157_{10}^{4}) feet to corner No. 68, a granite rock 16 x 7 x 4 inches in size, marked "68–255"; thence south ten (10) degrees twenty-two (22) minutes west two hundred and forty-five (245) feet to corner No. 69, a granite rock 16 x 8 x 6 inches in size, marked "69–255"; thence south seven (7) de-
52 grees fifteen (15) minutes west four hundred and forty-five and five-tenths (445_{10}^{5}) feet to corner No. 70, a granite rock 20 x 9 x 7 inches in size, marked "70–255"; thence south fifteen (15) degrees fifty (50) minutes west two hundred and fifty-six and five-tenths (256_{10}^{5}) feet to corner No. 71, a granite rock 14 x 10 x 7 inches in size, marked "71–255"; thence south eight (8) degrees twenty-six (26) minutes west three hundred and three (303) feet to corner No. 72, a granite rock 20 x 7 x 5 inches in size, marked "72–255"; thence south three (3) degrees six (6) minutes west three hundred and seventy-five (375) feet to corner No. 73, a granite rock 14 x 5 x 5 inches in size, marked "73–255"; thence south seven (7) degrees forty (40) minutes east seventy and five-tenths (70_{10}^{5}) feet to corner No. 74, a granite rock 13x8x6 inches in size, marked "74–255"; thence south four (4) degrees ten (10) minutes west two hundred and ninety-seven (297) feet to corner No. 75, a granite rock 14x8x6 inches in size, marked "75–255"; thence south one (1) degree ten (10) minutes east one hundred and fifty-seven (157) feet to corner No. 76, a granite rock 13x6x4 inches in size, marked "76–255"; thence south fifteen (15) degrees twenty (20) minutes east two hundred and twenty-two and five-tenths (222_{10}^{5}) feet to corner No. 77, a granite rock 13x6x6 inches in size, marked "77–255"; thence south thirty (30) degrees ten (10) minutes east three hundred and forty-seven and five-tenths (347_{10}^{5}) feet to corner No. 78, a granite rock 15 x 10 x 4 inches in size, marked "78–255"; thence south thir-
teen (13) degrees east one hundred and fifty (150) feet to corner
53 No. 79, a granite rock 16 x 10 x 4 inches in size, in mound of stones marked "79–255"; thence south thirteen (13) degrees ten (10) minutes east five hundred and fifty (550) feet to road, five hundred and eighty (580) feet to corner No. 80, a granite rock 15x10x6 inches in size, marked "80–255"; thence south one (1) degree twenty (20) minutes east six hundred (600) feet to corner No. 81, a granite rock 14 x 8 x 6 inches in size, marked "81–255"; thence south twenty-nine (29) degrees forty (40) minutes east three hundred and thirty and

five-tenths ($330\frac{5}{10}$) feet to corner No. 82, a granite rock 16x10x5 inches in size, in mound of stone marked "82–255"; thence south seventy-three (73) degrees forty (40) minutes west seven hundred and seventy-five (775) feet to road, eight hundred and sixty-seven (867) feet to Oro Company's ditch, eight hundred and eighty (880) feet cross ditch, fourteen ——— and eleven (1411) feet to corner No. 83, a granite rock 14x9x6 inches in size, marked "83–255"; thence south sixteen (16) degrees twenty (20) minutes east six hundred and fifty-three (653) feet to corner No. 84, a granite rock 18x7x7 inches in size, marked "84–255"; thence south eighty-eight (88) degrees five (5) minutes west fourteen hundred and twenty-eight and five-tenths ($1428\frac{5}{10}$) feet to the place of beginning, containing one hundred and sixty-four (164) acres and sixty-one hundredths ($\frac{61}{100}$) of an acre of land, more or less, as represented by yellow shading in the following plat:

54 Now know ye that the United States of America, in consideration of the premises, and in conformity with said Revised Statutes of the United States, have given and granted, and by these presents do give and grant unto the said Thomas Starr, and to his heirs and assigns, the said placer mining premises, above described as lot No. 255, embracing a portion of the unsurveyed public domain.

To have and to hold said mining premises, together with all the rights, privileges, immunities, and appurtenances of whatsoever nature thereunto belonging, unto the said Thomas Starr and to his heirs and assigns forever; subject nevertheless to the following conditions and stipulations:

First. That the grant hereby made is restricted in its exterior limits to the boundaries of the said lot No. 255 as hereinbefore described, and to any veins or lodes of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits which may hereafter be discovered within said limits, and which are not claimed or known to exist at the date hereof.

Second. That should any vein or lode of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits be claimed or known to exist within the above described premises at the date hereof, the same is expressly excepted and excluded from these presents.

Third. That the premises hereby conveyed may be entered
55 by the proprietor of any vein or lode of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits, for the purpose of extracting and removing the ore from such vein, lode, or deposit, should the same, or any part thereof, be found to penetrate, intersect, pass through, or dip into the mining ground or premises hereby granted.

Fourth. That the premises hereby conveyed shall be held subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reser-

voirs used in connection with such water rights as may be recognized and acknowledged by the local laws, customs, and decisions of courts.

Fifth. That in the absence of necessary legislation by Congress, the Legislature of Colorado may provide rules for working the mining claim or premises hereby granted, involving easements, drainage, and other necessary means to the complete development thereof.

In testimony whereof I, Rutherford B. Hayes, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, the twenty-ninth day of March, in the year of our Lord one thousand eight hundred and seventy-nine, and of the Independence of the United States the one hundred and third.

{ United States General Land Office. }

By the President.

R. B. HAYES.

(Signed) By WM. H. CROOK, *Secretary.*

56 (Signed) S. W. CLARK,
Recorder of the General Land Office.

Recorded vol. 38, pages 399 to 412, inclusive. *Examined.*

(Endorsed:) No. 1896; United States to Thomas Starr; State of Colorado, Lake county, ss.; filed April 7th, 1879, at 5 P. M., and recorded in book J, page 628; (signed) Jos. H. Wells, recorder, pr. Wm. H. Minor, dep'y; fees, $18.00. Bill. Plaintiffs' exhibit A. (signed) J. W. Christy, sten'r.

To the introduction of which patent defendants objected, on the ground that the patent is void on its face, because it calls for more than 160 acres of land and being but for one placer mining claim; but the court admitted said patent in evidence; to which ruling of the court in admitting said patent the defendants, by their counsel, then and there excepted.

Plaintiff, by its counsel, next offered in evidence the certificate of the register and receiver of the United States land office at Fairplay, Colorado, for the purpose of showing that application for a patent was made, and date of application, marked Exhibit "B," which is in the words and figures as follows, to wit:

UNITED STATES OF AMERICA,
State of Colorado, Lake County, } *ss:*

57 I, John J. Henry, register of the United States land office at Leadville, in the State of Colorado, do hereby certify that on the 18th day of March, 1878, Thomas Starr made application at this place to be allowed to enter and pay for, and receive a patent for, a certain

placer mining claim known as the Starr Placer Claim, situated in California Mining District, county of Lake and State of Colorado, and that such proceedings were thereafter had in this office in accordance with law.

That on the 6th day of March, 1879, the said Thomas Starr entered and paid for the said placer mining claim, and received a duplicate receiver's receipt therefor.

Given under my hand this 13th day of September, A. D. 1879.

(Signed) JNO. J. HENRY, *Register.*

(Endorsed:) Certificate of application and entry of Starr Placer Claim; Exhibit B of plaintiffs; J. W. Christy, steng'r; 11 | 25 | 79.

To the introduction of which certificate the defendants, by their counsel, objected, because immaterial, but the court overruled the objection and allowed the said certificate to be admitted in evidence, which was read to the jury; to which ruling of the court in admitting said certificate of the register and receiver defendants, by their counsel, then and there excepted.

58 Plaintiff, by its counsel, next offered in evidence a deed from Thomas Starr to August R. Meyer, and a deed from August R. Meyer to the St. Louis Smelting & Refining Company, both of which deeds are marked respectively exhibits "C" and "D," and are in the words and figures following, to wit:

Exhibit "C."

This deed, made this day of April, in the year of our Lord one thousand eight hundred and seventy-nine, between Thomas Starr, of the county of Lake and State of Colorado, of the first part, and Aug. R. Meyer, of the county of Lake and State of Colorado, of the second part:

Witnesseth, That the said party of the first part, for and in consideration of the sum of one dollar and other good and valuable considerations to the said party of the first part in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, has remised, released, sold, conveyed, and quit-claimed, and by these presents does remise, sell, convey, and quit-claim unto the said party of the second part, his heirs and assigns forever, all the right, title, interest, claim, and demand which the said party of the first part has in and to the following described tract of land, situate, lying, and being in the county of Lake and State of Colorado, to wit:

Beginning at corner No. 1, where stands a corner post, said post bears from United States location monument No. 1, established by J. S. Titcomb, United States deputy mineral surveyor in Cali-
59 fornia mining district, north 50° 38′ east ten hundred and seventy (1070) feet; thence S. 16° 20′ E. twelve hundred and thirty-one (1231) feet to corner No. 2; thence N. 88° 15′ E. five hun-

dred and seventeen (517) feet to corner No. 3; thence north 16° 20′ west two hundred (200) feet to corner No. 4; thence N. 70° 30′ E. two hundred and forty-five (245) feet to corner No. 5; thence N. 78° 45′ E. two hundred and forty-one (241) feet to corner No. 6; thence N. 3° W. fifty-nine (59) feet to corner No. 7; thence N. 16° 20′ W. one hundred and thirty-seven (137) feet to corner No. 8; thence N. 88° 5′ E. sixty-seven (67) feet to corner No. 9; thence N. 6° 50′ W. six hundred and fifty-nine (659) feet to corner No. 10; thence N. 27° 40′ E. three hundred and fifty-four (354) feet to corner No. 11; thence N. 29° 40′ W. twenty-eight (28) feet to corner No. 12; thence S. 73° 40′ W. fourteen hundred and thirteen (1431) feet to the place of beginning; said tract contains thirty-one and six-tenths ($31\frac{60}{100}$) acres more or less. In all the aforementioned courses the variations of the compass is reckoned to be 15 degrees east of the true meridian. Excepting and reserving from said tract of ground the lot of ground on which the buildings known as the "City Hall" and the "Little Casino" are situated, said lot fronting on Chestnut street, and being about thirty-five feet wide on Chestnut street, and extending back to the alley, being the ground between Billy Nye's saloon and the Hall and Coleman's saloon.

To have and to hold the same, together with all and singular the appurtenances and privileges thereunto belonging, or in anywise thereunto appertaining, and all the estate, right, title, interest,
60 and claim whatsoever of the said party of the first part, either in law or equity, to the only proper use, benefit, and behoof of the said party of the second part, his heirs and assigns forever.

In witness whereof, the said party of the first part has hereunto set his hand and seal the day and year first above written.

(Signed) THOMAS STARR. [SEAL.]

Signed, sealed and delivered in presence of—

STATE OF COLORADO, }
Lake County, } *ss:*

I, A. S. Weston, a notary public in for said county, in the State aforesaid, do hereby certify that Thomas Starr, personally known to me as the person whose name is subscribed to the annexed deed, appeared before me this day in person and acknowledged that he signed, sealed, and delivered the said instrument of writing as his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 4th day of April, A. D. 1879.

[NOTARY'S SEAL.] (Signed) A. S. WESTON,
Notary Public.

(Endorsed:) Plt'f's Exhibit C; No. 1790; Quit-claim Deed; Thomas Starr to Aug. R. Meyer. State of Colorado, Lake county, ss: I hereby certify that this instrument was filed for record in my office at
4:30 o'clock P. M., April 4th, 1879, and is duly recorded in
61 Book 14, page No. 232. (Signed) Jos. H. Wells, recorder; p. Wm. P. Miner, deputy. Fees $2.00, B.

Exhibit "D."

This deed, made this seventeenth day of April, in the year of our Lord one thousand eight hundred and seventy-nine, between August R. Meyer, of the county of Lake and State of Colorado, of the first part, and the St. Louis Smelting and Refining Company, a corporation, and State of Missouri, of the second part:

Witnesseth, That the said party of the first part, for and in consideration of the sum of one dollar and other good and valuable considerations to the said party of the first part in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, has remised, released, sold, conveyed, and quit-claimed, and by these presents does remise, sell, convey, and quit-claim unto the said party of the second part, its successors, heirs, and assigns forever all the right, title, interest, claim, and demand which the said party of the first part has in and to the following described real estate, situate, lying, and being in the county of Lake and State of Colorado, to wit:

Beginning at corner No. 1, which is the same as corner No. 83 of approved survey No. 255, which bears from U. S. locating monument No. 1, set by J. S. Titcomb, U. S. deputy mineral sur-
62 veyor, N. 50° 38′ E. 1,070 feet; thence S. 16° 20′ E. 500 feet to corner No. 2; thence N. 74° 37′ E. 142.3 to corner No. 3; thence S. 15° 23′ E. 385 feet to corner No. 4; thence S. 86° 56′ E. 575 feet to corner No. 5; thence N. 81° 53′ E. 68.7 to corner No. 6; thence N. 78° 45′ E. 241 feet to corner No. 7; thence N. 3° W. 59 feet to corner No. 8; thence N. 16° 20′ W. 137.⁰ feet to corner No. 9; thence N. 88° 5′ E. 67.⁰ feet to corner No. 10; thence N. 6° 50′ W. 659.⁰ feet to corner No. 11; thence N. 27° 40′ E. 354.⁰ to corner No. 12; thence N. 29° 40′ W. 28.⁰ feet to corner No. 13; thence S. 73° 40′ W. 1,413.⁰ feet to the place of beginning.

To have and to hold the same, together with all and singular the appurtenances and privileges thereunto belonging or in anywise thereunto appertaining, and all the estate, right, title, interest, and claim whatsoever of the said party of the first part, either in law or equity, to the only proper use, benefit, and behoof of the said party of the second part, its successors, heirs, and assigns forever.

In witness whereof, the said party of the first part has hereunto set his hand and seal the day and year first above written.

(Signed) AUG. R. MEYER. [SEAL.]

Signed, sealed, and delivered in presence of—

STATE OF COLORADO, }
Arapahoe County, } *ss:*

I, R. Ernst Schulz, a notary public in and for said county,
63 in the State aforesaid, do hereby certify that Aug. R. Meyer, who is personally known to me as the person whose name is

subscribed to the annexed deed, appeared before me this day in person and acknowledged that he signed, sealed, and delivered the said instrument of writing as his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this nineteenth day of April, A. D. 1879.

(Signed) R. ERNST SCHULZ,
Notary Public.

{Notary's Seal.}

(Endorsed:) No. 2704; Quit-claim Deed; Plff's Exhibit D; August R. Meyer to St. Louis Smelting and Refining Co. State of Colorado, Lake county, ss: I hereby certify that this instrument was filed for record in my office at 11.30 o'clock A. M., April 29th, 1879, and is duly recorded in Book 18, p. No. 42. (Signed) Jos. H. Wells, recorder; p. Wm. P. Miner, deputy. Fees $1.75, B.

Said deeds were admitted in evidence and read to the jury; to the introduction of which deeds the defendants objected to the first that it contains nothing to show that plaintiff has any rights whatever in the property described in the patent.

Mr. PATTERSON: We object to the deed from Meyer to the Smelting Company for the same reason and additional reason that it is not proven to be a portion of the ground described in the previous deed; but the court admitted said deeds to be read in evidence; to
64 which ruling of the court in admitting the said deeds the defendants then and there excepted.

Plaintiff, by its counsel, next offered in evidence a certified copy from the office of the Secretary of State of Colorado of the statutes of the State of Missouri, under which this corporation, the St. Louis Smelting & Refining Company, was organized, marked Exhibit "E" of Plaintiff.

Also certified copy from the office of the Secretary of State of Colorado of the certificate of the Secretary of State of Missouri, certifying that this company, the St. Louis Smelting and Refining Company, was legally incorporated and organized under the laws of the State of Missouri, marked Exhibit "F."

Also certified copy from the office of the Secretary of State of Colorado of the appointment of an agent on whom process might be served, and designating a principal place of business in the State of Colorado, where the office of the company for said State would be established, marked Exhibit "G."

Also certified copy from the office of the Secretary of State of Colorado, under the great seal of said State, of the articles of incorporation of the St. Louis Smelting & Refining Company, duly certified, dated May 10th, 1871, marked Exhibit "H," which papers were offered for the purpose of showing a compliance with the statutes of the State of Colorado governing foreign corporations, and are re-

spectively in the order given in the words and figures following, to wit:

65 OFFICE OF SECRETARY OF STATE,
CITY OF JEFFERSON, MO.

I, Michael K. McGrath, Secretary of State of the State of Missouri, do hereby certify that the annexed pages contain a true, complete, and full copy of articles I and VII of chapter 37 of Wagner's Statutes of the State of Missouri, entitled "Corporations," Private, and also of section 5 of an act of the General Assembly of the State of Missouri entitled "An act declaring Wagner's edition of the statutes of Missouri *prima facie* evidence of the statute laws, etc.," approved March 16, 1870; also, of certain acts of the General Assembly of the State of Missouri entitled as follows: "An act to amend chapter sixty-nine of the general statutes relating to manufacturing and business companies," "approved March 22, 1873"; "An act to amend the sixth section of chapter sixty-nine of the general statutes of the State of Missouri, being section six of article seven of chapter thirty-seven of Wagner's Statutes," approved February 7th, 1873; and "An act to amend chapter sixty-nine of the general statutes of Missouri, relating to manufacturing and business companies, by adding new sections thereto, to be known and designated as sections twenty, twenty-one, and twenty-two," approved April 12th, 1877, as appears by comparing the same with the original of said statutes and acts now on file, as the law directs, in this office.

In testimony whereof, I have hereunto set my hand and affixed the great seal of the State of Missouri.

66 Done at office in the city of Jefferson this second day of August, A. D. eighteen hundred and seventy-eight.

{The great seal of the State of Missouri.} MICH'L K. McGRATH,
Secretary of State.

CHAPTER 37.—CORPORATIONS, PRIVATE.

ARTICLE I.

General Powers and Liabilities.

Section 1. Every corporation, as such, has power:

First. To have succession by its corporate name for the period limited in its charter, and when no period is limited, for twenty years. Second. To sue and be sued, complain and defend in any court of law or equity. Third. To make and use a common seal, and alter the same at pleasure. Fourth. To hold, mortgage, or otherwise convey such real and personal estate as the purpose of the corporation shall require, not exceeding the amount limited in its charter or the law creating it, and also to take, hold, and convey such other property, real, personal, or mixed, as shall be necessary or requisite for such corporation to acquire in order to retain or secure the payment of any indebtedness or liability belonging to the corporation. Fifth. To appoint such subordinate officers and agents as the business of

the corporation shall require, and allow them a suitable compensation. Sixth. To make by-laws, not inconsistent with existing law, for the management of its property, the regulation of its affairs, and for the transfer of its stock. Seventh. To increase or diminish
67 (by a vote of its stockholders, cast as its by-laws may direct) the number of its directors or trustees to not less than three nor more than thirteen, and may, in like manner, change its corporate name without in anywise affecting its rights, privileges, or liabilities; such changes of name or number of directors or trustees shall take effect and be in force from the date at which the president or secretary of such corporation shall file with the Secretary of State an affidavit setting forth the name adopted or the number of directors or trustees fixed, together with the date at which such change in name or number of directors or trustees was voted by the stockholders of such corporation.

Section 2. That so much of the first section of the sixty-second chapter of the Revised Statutes as authorizes every private corporation to increase or diminish the number of its directors or trustees, and to change its corporate name, and all the provisions of said section as to the mode and manner of exercising such authority, shall be holden to extend to, and the same are hereby made applicable to, all such private corporations within this State as by the provisions of their charter are exempt from the general laws in relation to corporations.

Section 3. By-laws to direct the manner of taking the votes of the stockholders on the question of increasing or diminishing the number of directors or trustees, or of changing the corporate name, may be made by the directors of the corporation for the time being.

Section 4. Whenever any corporation shall be organized under the laws of this State it shall be the duty of the officers of said corporation to file with the Secretary of State a copy of the articles of association or incorporation, and the corporate existence of such corporation shall date from the time of filing said copy of such
68 articles; and a certificate by the Secretary of State, under the seal of the State, that said corporation has become duly organized, shall be taken by all courts of this State as evidence of the corporate existence of such corporation. Any private or public corporation may increase its capital stock to any amount, not exceeding double the amount of their authorized capital, by holding an election of the stockholders in conformity with the by-laws thereof, and if at such election a majority of the stockholders shall vote for the increase of stock, the same may be increased by a vote of the board of directors, trustees, or other business managers of such corporation, and upon such increase of stock being made in accordance with the by-laws, the date, amount, and subscription for such new stock shall be returned to the office of Secretary of State, and from the time the same is filed the increase of stock shall become a part of the capital thereof.

Section 5. The powers enumerated in the preceding section shall vest in every corporation that shall hereafter be created or organized.

Section 6. In addition to the powers enumerated in the first section of this chapter, and to those expressly given in its charter, or in the act under which it is incorporated, no corporation shall possess or exercise any corporate powers, except such as shall be necessary to the exercise of the powers enumerated or given; but any railroad company, macadamized, graded or plank road company, telegraph company, insurance company, bank, savings bank, fund company, manufacturing or business company, or other business association, may subscribe to or acquire shares in the capital stock or
69 purchase the bonds or obligations of any other corporation formed under the laws of this State for the object of erecting any building or buildings to be used, in whole or in part, as a merchants' business exchange in the town or city having a population of twenty thousand permanent inhabitants in which such corporation, or association so subscribing, acquiring, or purchasing as aforesaid, has a business office or agency: provided, that a majority of stockholders in interest, voting at an election duly called and held for that purpose, shall first assent to such subscription or acquirement of interest; and provided further, that the amount subscribed shall not exceed ten per cent. of the paid-up capital or reserve fund of any corporation.

Section 7. When the corporate powers of any corporation are directed by its charter or the provisions of this law to be exercised by any particular body or number of persons, a majority of such body or persons, if it be not otherwise provided in the charter or law creating it, shall be a sufficient number to form a board for the transaction of business, and every decision of a majority of the persons duly assembled as a board shall be valid as a corporate act.

Section 8. Parol contracts may be binding upon aggregate corporations, if made by an agent duly authorized by a corporate vote, or under the general regulations of the corporation, and contracts may be implied on the part of such corporations from their corporate acts, or those of an agent whose powers are of a general character.

Section 9. The first meeting of all corporations shall, unless otherwise provided for in their acts of incorporation, be called by a notice signed by some one or more of the persons named as corpo-
70 rators in the act of incorporation, and setting forth the time, place, and purposes of the meeting, and such notice shall, seven days at least before the meeting, be delivered to each member, or published in some newspaper of the county where the corporation may be established, or if there be no such newspaper, then in the nearest newspaper.

Section 10. Whenever for want of sufficient by-laws for the purpose, or of officers duly authorized, or from the neglect or refusal of such officers, or from other legal impediments, a legal meeting of any corporation cannot otherwise be called, any justice of the peace in the county where it is desirable to hold such meeting, or where

such corporation is established, if it be local, may, on a written application of two or more members thereof, issue a warrant to either of said members, directing him to call a meeting of such corporation by giving such notice as is required in the preceding section.

Section 11. Whenever any meeting of any corporation shall be called by warrant from a justice of the peace, the person to whom such warrant is directed may call such meeting to order, and preside therein until a presiding officer is chosen and qualified, if there be no officer present whose duty it may be to preside.

Section 12. When all the members of a corporation shall be present at any meeting, however called or notified, and shall sign a written consent thereto on the record of such meeting, the acts of such meeting shall be as valid as if legally called and notified.

71 Section 13. If any execution shall have been issued against the property or effects of a corporation, and if there cannot be found whereon to levy such execution, then such execution may be issued against any of the stockholders, to an extent equal in amount to the amount of stock by him or her owned, together with any amount unpaid thereon: provided always, that no execution shall issue against any stockholder except upon an order of the court in which the action, suit, or other proceeding shall have been brought or instituted, made upon motion in open court, after sufficient notice in writing to the persons sought to be charged, and upon such motion such court may order execution to issue accordingly.

Section 14. The clerk or other officer having charge of the books of any corporation, on demand of any officer holding any execution against the same, shall furnish the officer with the names, places of residence, (so far as to him known,) and the amount of liability of every person liable as aforesaid.

Section 15. The board of directors, trustees, or other body of persons lawfully exercising the corporate powers of any corporation, may require the subscribers of the capital stock of the company to pay the amount by them respectively subscribed in such manner and in such installments as may be required by the by-laws. If any stockholders shall neglect to pay any installment as required

72 by a resolution of the board of directors, or persons exercising the corporate powers of such corporation, the directors or other persons exercising such corporate powers may declare his stock and all previous payments forfeited to the use of the company; but no stock shall be forfeited until they shall have caused a notice in writing to be served on him personally, or by depositing the same in the post-office, (properly directed to him at the post-office nearest his usual place of residence,) stating that he is required to make such payment at the time and place specified in said notice, and that if he fails to make the same, his stock and all previous payments thereon will be forfeited for the use of the company; which notice may be served as aforesaid at least sixty days previous to the day on which such payment is required to be made.

Section 16. The stock of every company formed under this act,

shall be deemed personal estate, and shall be transferable in the manner prescribed by the laws of the company; but no share shall be transferred until all previous calls thereon shall have been fully paid in.

Section 17. All bodies corporate, by any suit at law, in any court in this State, may sue for, recover, and receive from their respective members all arrears or other debts, dues, and other demands which now are or hereafter may be owing to them, in like mode, manner, and form as they might sue for, recover, and receive the same from any person who might not be one of their body, any law, usage, or custom to the contrary thereof notwithstanding.

Section 18. If the directors of any corporation shall knowingly declare and pay any dividend when the corporation is in-
73 solvent, or any dividend the payment of which would render it insolvent, they shall be jointly and severally liable for all the debts of the corporation then existing, and for all that shall be thereafter contracted as long as they shall, respectively, continue in office; provided, that the amount for which they shall all be so liable shall not exceed the amount of such dividend; and that if any of the directors shall be absent at the time of making the dividend, or shall object thereto, and shall file their objection in writing with the clerk, or other officer of the corporation having charge of the books, they shall be exempted from the said liabilities.

Section 19. Any corporation incorporated by any other State or country, and having property in this State, shall be liable to be sued, and the property of the same shall be subject to attachment in the same manner as individuals residents of other States or countries, and having property are now liable to be sued, and their property subject to be attached; provided, that all railroad companies who own and operate roads terminating opposite to the city of St. Louis, and whose chief office or place of business is in the city of St. Louis, shall be sued in the same manner, and no other, that railroad companies chartered by the laws of this State are now sued.

Section 20. It shall be lawful for any corporation to convey lands by deed, sealed with the common seal of said corporation, and signed by the president or the presiding member or trustee of said corporation, and such deed, when acknowledged by such officer to be the act of the corporation, or proved in the usual form prescribed for
74 other conveyances for lands, shall be recorded in the recorder's office of the county where the land lies in like manner with other deeds.

Section 21. Upon the dissolution of any corporation already created, or which may hereafter be created, by the laws of this State, the president and directors or managers of the affairs of the corporation at the time of its dissolution, by whatever name they may be known in law, shall be trustees of such corporation, with full power to settle the affairs, collect the outstanding debts, and divide the moneys and other property among the stockholders, after paying the debts due and owing by such corporation at the time of its dissolution as far as

such money and property will enable them; to sue for and recover such debts and property by the name of the trustees of such corporation, describing it by its corporate name, and may be sued by the same; and such trustees shall be jointly and severally responsible to the creditors and stockholders of such corporation to the extent of its property and effects that shall have come into their hands.

Section 22. If any company formed under this act dissolve, leaving debts unpaid, suits may be brought against any person or persons who were stockholders at the time of such dissolution, without joining the company in such suit, and if judgment be rendered and execution satisfied, the defendant or defendants may sue all who were stockholders at the time of dissolution for the recovery of the portion of such debt for which they were liable, and the execution
75 upon the judgment shall direct the collection to be made from property of each stockholder respectively; and if any number of stockholders (defendants in the case) shall not have property enough to satisfy his or their portion of the execution, then the amount of deficiency shall be divided equally amongst all the remaining stockholders, and collections made accordingly, deducting from the amount a sum in proportion to the amount of stock owned by the plaintiff at the time the company dissolved.

Section 23. No charter of any corporation granted by the legislature of this State shall be altered, suspended, or repealed by such legislature, unless proof be made satisfactory to the legislature that notice of such proposed alteration, suspension, or repeal has been given to the president and secretary of such corporation for at least one month before the time at which such alteration, suspension, or repeal will be proposed.

Section 24. A failure to elect directors on the day designated in the by-laws of any company incorporated under the laws of this State shall not have the effect of dissolving such incorporated company.

Section 25. In all actions which may be instituted against any corporation, or incorporated company, it shall be sufficient to issue a summons commanding the corporation by their corporate name to appear and answer the action; which summons shall be directed as provided by this chapter, and returnable in like manner, and subject to the same rules and regulations as the like process in the case of individuals.

76 Section 26. When any such summons shall be issued against any banking or other incorporated company, service on the president or other chief officer of such company, or, in his absence, by leaving a copy thereof at any business office of said company with the person having charge thereof, shall be deemed a sufficient service; and if the corporation have no business office in the county where suit is brought, or if no person shall be found in charge thereof, and the president or chief officer cannot be found in such county, a summons shall be issued directed to the sheriff of any county in this State where the president or chief officer of such company may reside

or be found, or when any officer or place of business may be kept of such company, and the service thereof shall be the same as above.

Section 27. On the return of such summons, served as aforesaid, the officer serving the same shall express in his return on whom, how, and when the same has been executed; and if not on the chief officer, he shall express the absence of such officer, or that he cannot be found.

Section 28. Suits against corporations shall be commenced either in the county where the cause of action accrued, or in the county where such corporations have or usually keep an office or agent for transaction of their usual and customary business.

Section 29. All notices, orders, and rules required to be served in the progress of any cause, shall be served in like manner as in other civil cases.

77 Section 30. In case the sheriff or other officer shall return any summons not served, and it shall be made to appear to the court that process cannot be served, the court, or clerk thereof in vacation, shall make an order directing the defendant to be notified of the commencement of the suit by publication in the same manner as is provided by law for the notifying of non-resident defendants in civil actions.

Section 31. The process upon a judgment against any corporation shall be *fieri facias*, which the sheriff or other officer shall levy on the moneys, goods and chattels, land and tenements of such corporation, and proceed thereon as in civil cases.

Section 32. Proceedings against garnishees under the provisions of this act, shall be the same as against the garnishee summoned in the case of an original attachment, but no judgment shall be rendered against him for any debt to become due at a future day, until after the same shall become due.

Section 33. For all moneys paid by any garnishee under this act, he shall have credit against the corporation to whom it was due.

Section 34. If a sufficient sum be not made to satisfy such judgment and costs, other writs of execution may be issued as aforesaid, from time to time, until the whole is satisfied.

Section 35. If any moneys remain in the hands of the officer after satisfying the judgment and all costs, he shall pay the same to the corporation or its order.

Section 36. Nothing contained in this chapter shall be
78 construed to extend to any county or township, or to any public university, academy, seminary, or school incorporated by the laws of this State.

Section 37. The records of any company incorporated under the provisions of this law, or copies thereof duly authenticated by the signature of the president and secretary of such company under the corporate seal thereof, shall be competent evidence in any suit to which such company may be a party.

Article VII.

Manufacturing and Business Companies.

Section 1. Any three or more persons may associate together in the manner hereinafter provided, and have all the powers of a corporation for either of the following objects: First, for the purpose of carrying on any kind of mining, mechanical, chemical, manufacturing, smelting, printing, coal oil or petroleum business. Second, for the encouragement and promotion of agriculture and the improvement of stock, and for these purposes may establish fair grounds. Third, to construct toll bridges. Fourth, to erect hotels, halls, market-houses, warehouses, exchange and other buildings. Fifth, to build wharves, docks, grain elevators, levees, and to construct canals and embankments for the reclaiming of lands. Sixth, to convey and transport persons and freights on land or water by any mode of conveyance whatever. Seventh, to construct horse railroads. Eighth, to purchase and use fire engines, hose, hooks and ladders, and all other apparatus necessary or useful to prevent and extinguish fires. Ninth, for the supplying of any town, city, district, neighborhood or village with gas or water. Tenth, to establish
79 steam or other ferries. Eleventh, for any other purpose intended for mutual profit or benefit, not otherwise especially provided for and not inconsistent with the constitution and laws of this State.

Section 2. Such persons shall make, sign, and acknowledge before some officer authorized by law to take acknowledgments of deeds, a certificate in writing in which shall be stated the corporate name of said company, the objects for which such company is formed, the amount of the capital stock of said company, the number of shares of which said stock shall consist, and the price of each share, the number of trustees or directors, their names, who shall manage the affairs of such company for the first year, and the name of the place in which the business operations of the company shall or may be carried on, and record the same in the recorder's office of the county in which said company shall transact its business. The persons so acknowledging and giving said certificate, and their associates and successors, shall, for a term not exceeding fifty years next succeeding the recording of such certificate, be a body corporate, and by such name they and their successors shall be entitled to have, possess, and enjoy all the rights and privileges conferred by law upon corporations, subject to the provisions of this chapter as hereinafter specified.

Section 3. The property or business of such company shall be controlled, managed, and conducted by directors, not less than three nor more than thirteen in number, who shall respectively be stockholders in such company, and one of whom shall be a bona-fide citizen of this State, to be elected by ballot by the stockholders in said
80 company for one year, at such time and place as shall be directed by the by-laws of such company, of which time and place

at least ten days' notice shall be published in some newspaper published nearest to the business place of such company. Such election shall be made by such of the stockholders as shall attend in person or by proxy in writing; each stockholder shall be entitled to one vote on each share of stock; the persons having the greatest number of votes shall be declared elected. In case the election shall not be made on the day named, the said corporation shall not thereby be dissolved, but an election may be held at any other time agreeably to the directions of the by-laws of said company; and the persons so elected shall hold their office until others are elected and qualified, and in case of the death or resignation of one or more of said directors, the survivors shall fill the vacancy until the next election.

Section 4. The amount of capital stock of such company shall be not less than two thousand nor more than ten millions of dollars.

Section 5. Dividends of the profits made by such company may be declared by the trustees or directors thereof every six months or oftener, as directors may elect, but no such dividend shall be made and paid to the stockholders while such company is an insolvent condition, and if the directors of any such company shall knowingly declare and pay any dividend when the company is insolvent, or any dividend the payment of which would render it insolvent, or which would diminish the amount of its capital stock, they
81 shall be jointly and severally liable for all the debts of the company then existing, and for all that shall be thereafter contracted while they shall respectively continue in office: provided, that if any of the directors shall object to the declaring of such dividend or to the payment of the same, and shall at any time before the time fixed for the payment thereof file a certificate of their objections in writing with the clerk of the company and with the circuit clerk of the county, they shall be exempt from the said liability. It shall be the duty of the trustees or directors of such company to keep correct accounts of their transactions, and have full statements of the condition of the affairs of such company made out and exhibited to the stockholders as often as once in each year, at least ten days before the day of election, and said stockholder may, at all reasonable times, have access to the books of the company, to examine the same, and under such rules and regulations as may be prescribed by the stockholders or directors.

Section 6. No note or obligation given by any stockholder, whether secured by deed of trust, mortgage, or otherwise, shall be considered as payment of any part of the capital stock, and no loan of money shall be made by any such company to any stockholder therein; and if such loan shall be made to a stockholder, the officers making it, or who shall assent thereto, shall be jointly and severally liable to the company for the amount of such loan and interest.

82 Section 7. No person holding any stock in such company as executor, administrator, guardian, or trustee, and no person holding such stock as collateral security, shall be personally subject to any liability as stockholder of such company; but the person pledg-

ing such stock shall be considered as holding the same, and shall be liable as stockholder accordingly. And the estate and funds in the hands of such executors, administrators, guardians, or trustees, shall be liable in like manner and to the same extent as the testator or intestate (or the ward or person interested in such trust fund) would have been if he had been living and competent to act and hold the same stock in his own name.

Section 8. Every such executor, administrator, guardian, or trustee shall represent the share of stock in his hands at all meetings of the company, and may vote accordingly as a stockholder, and every person who shall pledge his stock as aforesaid may, nevertheless, represent the same at all such meetings, and may vote accordingly as a stockholder.

Section 9. The books and all records of the proceedings of such company shall be kept open for the inspection of all persons interested.

Section 10. Any corporation or company now existing or which may hereafter be formed for any of the purposes contemplated by this chapter, may increase or diminish its capital stock by complying with the provisions of this chapter in any amount which may be deemed sufficient and proper for the purposes of corporations, and may also extend its business to any other objects authorized by
83 this chapter, subject to the provisions and liabilities thereof; but before any corporation shall be entitled to diminish the amount of its capital stock, if the amount of its debts and liabilities shall exceed the amount of capital to which it is proposed to be reduced, such amount of debts and liabilities shall be satisfied and reduced so as not to exceed such diminished amount of capital, and any existing company heretofore formed under the general law, or any special act, may come under and avail itself of the privileges and provisions of this chapter by complying with the following provisions, and thereupon such company, its officers and stockholders, shall be subject to all the restrictions, duties, and liabilities of this chapter.

Section 17. Whenever any company shall desire to call a meeting of the stockholders for the purpose of availing itself of the privileges and provisions of this chapter, or for increasing or diminishing the amount of its capital stock, or for extending or changing its business, it shall be the duty of the directors to publish a notice, signed by at least a majority of them, in a newspaper in the county, if any shall be published therein, at least three successive weeks, and to deposit a written or printed copy thereof in the post-office, addressed to each stockholder at his usual place of residence, at least three weeks previous to the day fixed upon for holding such meeting, specifying the object of the meeting, the time and place when and where such meeting shall be held, and the amount to which it shall be extended or changed. And a vote of at least two-thirds of all the shares of stock shall be necessary to an increase *of* diminution of the amount of its capital stock, or the extension or change of its
84 business as aforesaid, or to enable a company to avail itself of the provisions of this chapter.

Section 12. If at any time and place specified in the notice provided for in the preceding section of this chapter, stockholders shall appear in person or by proxy, in number representing not less than two-thirds of all the shares of stock of the corporation, they shall organize by choosing one of the directors chairman of the meeting, and also a suitable person for secretary, and proceed to a vote of those present in person or by proxy; and if, on canvassing the votes, it shall appear that a sufficient number of votes has been given in favor of increasing or diminishing the amount of capital, or of extending or changing its business as aforesaid, or for availing itself of the privileges and provisions of this chapter, a certificate of the proceedings showing a compliance with the provisions of this chapter, the amount of capital actually paid in, the business to which it is extended or changed, the whole amount of debt and liabilities of the company, and the amount to which the capital stock shall be increased or diminished, shall be made out, signed, and verified by the affidavit of the chairman, and be countersigned by the secretary, and such certificate shall be acknowledged by the chairman and recorded as provided in the second section of this chapter, and when so recorded the capital stock of such corporation shall be increased or diminished to the amount specified in such certificate, and the business extended or changed as aforesaid, and the company shall be entitled to the privileges and provisions and be subject to the liabilities of this chapter, as the case may be.

Section 13. No stockholder shall be personally liable for the payment of any debt contracted by any company formed under this chapter which is not to be paid within one year from the time the debt is contracted, nor unless a suit for the collection of such debt shall be brought against such company within one year after the debt shall become due; and no suit shall be brought against any stockholder who shall cease to be a stockholder in any such company for any debt so contracted, unless the same shall be commenced within two years from the time he shall cease to be a stockholder in such company, nor until an execution shall have been returned unsatisfied in whole or in part.

Section 14. Any corporation formed under this chapter for the purpose of supplying any town, city, or village with gas or water, shall have full power to manufacture and sell and to furnish such quantities of gas or water as may be required in the city, town, or village where located for public or private buildings or for other purposes; and such corporation shall have the power to lay conductors for conveying gas or water through the streets, lanes, alleys, and squares of any city, town, or village with the consent of the municipal authorities thereof, and under such reasonable regulations as said authorities may prescribe.

Section 15. The municipal authorities of any city, town, or village in which any gaslight or water company shall be organized under this chapter, are hereby authorized to contract with any such corporation for the lighting by gas or supplying with water the

streets, lanes, alleys, squares, and public places in any such city, town, or village.

86 *Of Bridge Companies.*

Sections sixteen, seventeen, and eighteen of bridge companies.

Section. 19. Any corporation organized under the provisions of an act entitled "An act relative to incorporation for manufacturing and other purposes," approved February 15, 1864, shall have authority to carry on its operations in any part of this State.

Section 20. Whenever any company shall desire to call a meeting of its stockholders for the purpose of increasing the amount of its capital stock, and the directors thereof shall deem it advisable for the best interests of said company to submit at the time and place of said meeting to the stockholders whether said stock so proposed to be increased shall be preferred, and the amount, number of shares, the price per share, in case an increase shall be determined, and also the character thereof, and in case additional notice to such effect shall have been given for the time as required by this act for the purpose of increasing said capital stock, then, if on canvassing the votes of the said stockholders, as required by this chapter, it shall appear that two-thirds of all the stock of said company shall have been cast for the increase of its stock, and that the said increased stock shall be preferred, the said stockholders shall also, at said time and place, by like vote, determine the amount, the number of shares, and the price per share of said increase, and what rate of dividend, not exceeding ten per centum per annum, shall be
87 paid on said preferred stock out of the net yearly income earned in any one current year before any dividend shall be made and paid on the general stock of said company.

Section 21. The certificate required by section twelve of this act (in case said capital stock shall be increased in the manner and as is provided in the foregoing section) shall also contain a statement of the amount, and number of shares, the price per share of such increased stock, and also the rate of dividend to be paid on said increased preferred stock.

Section 22. Any two corporations or companies now existing under general or special laws, or which may be hereafter created, whose objects and business are in general of the same nature, may amalgamate, unite, and consolidate said corporations or companies, and form one consolidated company, holding and enjoying all the rights, privileges and powers, franchises and property belonging to each, and under such corporate name as they may adopt or agree upon; such consolidation shall be made by agreement in writing by or under the athority of the board of directors, and the assent of the owners of at least three-fifths of the capital stock of each of said corporations or companies, and a certificate of the fact of such consolidation, with the name of the consolidated company, shall be filed and recorded in the office of the Secretary of State; provided no such consolidation shall in any manner affect or impair the

rights of any creditors of either of said corporations or companies; and provided further, that companies or corporations so consolidating shall accept the provisions of this act. Such agreement
88 may provide for the number of directors of said corporations or companies, not exceeding thirteen.

Section 23. All the property and effects of such consolidated company shall be liable to be taxed as other property in this State, any provision in the charter of any of said companies to the contrary notwithstanding.

Section 24. The provisions of this act shall apply only to companies and corporations organized or created solely for manufacturing purposes.

Section 25. Whenever any company organized under this chapter for the purpose of erecting buildings to be used as a merchants' or mechanics' exchange, in any city having over thirty-five thousand inhabitants, shall have selected for the location of its buildings any piece or parcel of land, not exceeding one block in extent in such city or town, and the municipal authorities thereof shall have approved such location, or the persons owning the major part in value of the real estate covered by said location shall have consented to sell the same to said company, then, and either of said events, and in case any owner of any real estate in said block, or of any interest therein, cannot agree with said company upon the proper compensation to be paid, or in case such owner is incapable of contracting, unknown, or non-resident of the said State, said property shall be taken by said company in the same manner as provided for in chapter sixty-six of the General Statutes of this State, relating to the appropriation and valuation of lands taken for tele-
89 graph, macadamized, graded, plank, or railroad purposes; provided that in assessing the value of the property to be condemned under the provisions of this act, or any act to which this is amendatory thereof, the benefits or advantages of the erection of such exchange buildings, which may accrue to the owner or owners of the property condemned or adjoining thereto, shall not be taken into consideration; but the value of the same shall be truly determined without regard to any such advantages or benefits, whether real or supposed; and said municipal authorities may also by ordinance abolish any alley running through any such block of ground so selected as aforesaid, within the limits of their municipal corporation, and convey to said company, on such terms as may be agreed on, the land on which said alley is laid out, if the land on both sides of said alley throughout its whole length is owned by said company.

AN ACT declaring Wagner's edition of the Statutes of Missouri *prima facie* evidence of the statute law, and providing for the purchase and distribution thereof by the State.

Be it enacted by the General Assembly of the State of Missouri as follows:

Section 5. The statutes aforesaid, and the acts, titles, and chapters as embraced therein, from chapter one to chapter one hundred and forty-eight, both inclusive, shall be known as "Wagner's Statutes" of the State of Missouri; and the same shall be designated and cited as "Wagner's Statutes," adding the number of the chapter and section, when necessary, without reference to the year of the passage
90 thereof, and said statutes shall be *prima facie* evidence of the statute law of this State in all courts of justice and elsewhere, from and after the passage of this act.

Approved March 16, 1870.

AN ACT to amend chapter sixty-nine of the General Statutes relating to manufacturing and business companies.

Be it enacted by the General Assembly of the State of Missouri as follows:

Section 1. The said chapter sixty-nine of the General Statutes is hereby amended by adding the following:

Section 20. Any corporation now existing under the general law of this State, or which may hereafter be formed under the laws of this State for any of the purposes contemplated by the chapter aforesaid, may, by a vote of its stockholders representing at least two-thirds of its stock, at a meeting called for that purpose, and in compliance with sections eleven and twelve of the chapter of which this is amendatory, so far as this may apply, authorizing the holders of any bonds that may have been issued by said corporation to exchange the same for and convert the principal thereof into stock of said corporation, at such rates and upon such terms as may be agreed upon as aforesaid: Provided, such shares of stock shall not be valued at less than their market or actual value; and as said bonds shall thus be exchanged and converted, the stock issued for and in payment of such bonds shall, as the same shall be exchanged and converted, from part of the stock of said corporation (and) be
91 entitled to all the benefits and privileges of any other stock of said corporation: Provided, however, that the amount of stock thus issued, together with the stock theretofore issued, shall not exceed in the aggregate the amount of stock which said corporation is authorized to issue by law.

Section 2. This act to take effect, and be in force, from and after its passage.

Approved March 22, 1873.

AN ACT to amend the sixth section of chapter sixty-nine of the General Statutes of the State of Missouri, being section six of article seven of chapter thirty-seven of Wagner's Statutes.

Be it enacted by the General Assembly of the State of Missouri as follows:

Section 1. Section six of chapter sixty-nine of the General Statutes, being section six of article seven of chapter thirty-seven of

Wagner's Statutes of the State of Missouri, is amended so as to read as follows:

Section 6. No note or obligation given by any stockholder, whether secured by deed of trust, mortgage, or otherwise, shall be considered as payment of any part of the capital stock; and no loan of any money shall be made by any such company to any stockholder therein; and if such loan shall be made to a stockholder, the officers making it, or who shall assent thereto, shall be jointly and severally liable to the company for the amount of such loan and the interest; the provisions, however, of this section not to apply to "Mutual House-building Companies," or companies that build houses, or loan money to their stockholders for the purpose of building houses, on the security or pledge of their stock.

Approved February 7, 1873.

92 AN ACT to amend chapter sixty-nine of the General Statutes of Missouri relating to manufacturing and business companies, by adding new sections thereto, to be known and designated as sections twenty, twenty-one, and twenty-two.

Be it enacted by the General Assembly of the State of Missouri as follows:

Section 1. That chapter sixty-nine of the General Statutes of Missouri relating to manufacturing and business companies, is hereby amended by adding the following new section thereto, so as to read as follows:

Section 20. The Circuit Court shall have jurisdiction over the directors, managers, trustees, and other officers of such corporations now existing or hereafter organized under and by virtue of this chapter: First, to compel such directors, managers, trustees, and other officers to account for their official conduct in the management and disposition of the funds, property, and business committed to their charge. Second, to order, decree, and compel payment by them to the corporation which they represent, and to its creditors of all sums of money, and of the value of all property which they may have acquired to themselves, or transferred to others, or may have lost or wasted by any violation of their duties or abuse of their powers as such directors, managers, trustees, or other officers of such corporation. Third, to suspend any director, trustee, manager, or other officer from exercising his office whensoever it shall appear that he has abused his trust. Fourth, to remove any such director, trustee, or other officer upon proof or conviction of gross misconduct. Fifth, to direct, if necessary, new elections to be held by the body, or board, or
93 stockholders duly authorized for that purpose, to supply any vacancy created by such removal, and at such election no person so removed or suspended shall be eligible as a director, trustee, or other officer of such company. Sixth, to restrain and prevent and alienation of property of the company by said directors, trustees, or other officers in cases where it may be threatened, or there is good

reason to apprehend that it is intended to be made in fraud of the rights and interest of such company.

Section 21. In proceedings under this act the court may appoint one or more receivers to take charge of the business, property, and effects of such corporation, and to collect, sue for, and recover the debts and demands that may be due, and the property that may belong to such corporation, who shall in all respects be subject to the control of the court.

Section 22. The jurisdiction conferred by this act shall be exercised as in ordinary cases on petitions filed by or at the instance of any director, trustee, or other officer of such corporation having a general superintendence of its concerns, or at the instance of any creditor or stockholder of such corporation.

Approved April 12, 1877.

Certificate.

STATE OF COLORADO, }
Secretary's Office. }

I, N. H. Meldrum, Secretary of State of the State of Colorado, do hereby certify that the foregoing is a true and correct transcript of a certified copy of certain laws of the State of Missouri, 94 which was filed in my office by the St. Louis Smelting and Refining Company on the 9th day of August, A. D. 1878, at nine o'clock A. M. of said day.

In testimony whereof, I have hereunto set my hand and affixed the great seal of the State, at the city of Denver, this 12th day of September, A. D. 1879.

(Signed) N. H. MELDRUM,
Secretary of State.

{Seal of the State.}

(Endorsed:) Articles I and VII of chapter 37 of Wagner's Statutes concerning corporations, in connection with the St. Louis Smelting and Refining Co.; certified copy; Exhibit E of Plaintiffs; 11 | 26 | 79; J. W. Christy, steng'r.

STATE OF MISSOURI, }
County of St. Louis, } *ss:*

Be it remembered, that on this tenth day of May, A. D. 1871, the undersigned, desirous of organizing a body corporate for purposes hereinafter stated, in pursuance of chapters sixty-two and sixty-nine, title twenty-four of the General Statutes of the State of Missouri, as constituted and revised by the General Assembly, do by these presents set forth and declare our articles and certificate of incorporation as follows:

This corporation shall be known and designated under the name and style of "The St. Louis Smelting and Refining Company."

The objects and purposes for which this corporation and company

has been formed and organized are for mining, smelting, and refining gold, silver, and other ores, metals, mineral and mineral substances, and for purchasing, crushing, pulverizing, reducing, transporting, and working said ores, metals, and mineral substances, and of preparing the same for market, sale, trade, or use, and of prospecting for, discovering, mining, and securing valuable mines and claims, and of purchasing, selling, and leasing mining property and other real estate, and of running, conducting, and carrying on all such mills, furnace, work-shops, and stores for supplying workmen and others as may be convenient or useful in connection therewith, and also for establishing and carrying on whatsoever other business as may be convenient, proper, or necessary to be done in connection with and for the success of said company's operations; and the main office or place of business of this corporation is to be in the city and county of St. Louis and State of Missouri, and the smelting, mining, and other operations of said company are to be carried on in said State of Missouri and in such other places and States as the business of said corporation may from time to time require. The capital stock of said corporation shall be two hundred and fifty thousand dollars, divided into twenty-five hundred shares of the par value of one hundred dollars each.

The number of directors of said St. Louis Smelting and Refining Company is seven, and their names are Geo. H. Loker, Edwin Harrison, J. L. Howard, G. W. Chadbourne, John B. Maude, Martin Collins, and W. L. Loker, all of the city and county of St. Louis and State of Missouri aforesaid, who shall hold their office until their successors are duly elected and qualified, and who shall cause books of subscription to the capital stock of said company to be opened at said company's office as aforesaid, and at such other place or places as may be designated by them, the said board of directors or corporators, which books shall be kept open for such time and under such rules as may be by them prescribed.

In witness whereof, we have hereunto set our respective hands and seals in presence of each other as witnesses on this the said 10th day of May, A. D. 1871, in the city and county of St. Louis and State of Missouri aforesaid.

EDWIN HARRISON.	[SEAL.]
GEO. H. LOKER.	[SEAL.]
J. L. HOWARD.	[SEAL.]
G. W. CHADBOURNE.	[SEAL.]
JNO. B. MAUDE.	[SEAL.]
MARTIN COLLINS.	[SEAL.]
WM. L. LOKER.	[SEAL.]

STATE OF MISSOURI, } ss:
County of St. Louis, }

Be it remembered that Geo. H. Loker, Edwin Harrison, J. L. Howard, G. W. Chadbourne, Jno. B. Maude, Martin Collins, and Wm. L. Loker, who are personally known to the undersigned, a

notary public within and for said county, to be the persons whose names are subscribed to the foregoing instrument as the parties thereto, this day appeared before me and acknowledged that they executed the same as their voluntary act, for the uses and purposes therein contained, set forth, and specified.

In witness whereof, I have hereunto set my hand and notarial seal this 10th day of May, 1871.

G. H. LOKER, JR.,
[SEAL.] *Notary Public, St. Louis County.*

97 Filed and recorded May 11th, 1871.
WM. C. KENNETT, *Recorder.*

STATE OF MISSOURI, } *ss:*
City of St. Louis, }

I, the undersigned, recorder of deeds, do hereby certify the foregoing to be a true copy of the articles of incorporation of the St. Louis Smelting and Refining Company, together with the acknowledgment, &c., thereof, as fully as the same appears of record in my office in Book 430, page 34.

{ Seal of Recorder of Deeds, St. Louis, State of Mo. } Witness my hand and official seal this 22d day of July, 1878.

D. H. MACADAM, *Recorder.*

STATE OF COLORADO, } *ss:*
Secretary's Office, }

I, Norman H. Meldrum, Secretary of State of the State of Colorado, do hereby certify that the foregoing is a correct transcript of the certified copy of the articles of incorporation of the St. Louis Smelting and Refining Company, which was filed in this office the twenty-sixth day of July, A. D. 1878, at 9.30 o'clock A. M., and admitted to record.

{ Great seal of the State. } In testimony whereof, I have hereunto set my hand and affixed the great seal of the State, at the city of Denver, this 12th day of September, A. D. 1879.

(Signed) N. H. MELDRUM,
Secretary of State.

(Endorsed:) Articles and Certificate of Incorporation of the St. Louis Smelting and Refining Company; Certified Copy; Exhibit F of pl'ffs; 11 | 25 | 79; J. W. Christy, sten'g'r.

98 We, Edwin Harrison, president of the St. Louis Smelting and Refining Company, a corporation duly organized pursuant to the laws of the State of Missouri, and George H. Loker, Jr., secretary of said corporation, do hereby severally certify that Leadville, in Lake county, is the principal place in the State of Colorado where the business of said corporation shall be carried on in said State of Co'

orado; and that A. V. Weise, a resident of Leadville, State and county last aforesaid, is the authorized agent of said St. Louis Smelting and Refining Company, residing at Leadville aforesaid, the principal place of business of said corporation in said State of Colorado, upon whom process may be served.

In testimony whereof, witness our hands and the seal of said corporation this twenty-seventh day of August, A. D. 1878, at St. Louis, in the State of Missouri.

{Seal of the St. Louis Smelting and Refining Co., Missouri.}

EDWIN HARRISON, *Pres't.*
G. H. LOKER, JR., *Sec.*

STATE OF MISSOURI, *City of St. Louis,* } *ss:*

I, Charles D. Greene, Jr., a commissioner for Colorado, resident at St. Louis, Missouri, hereby certify that on this twenty-seventh day of August, A. D. 1878, before me personally came George H. Loker, Jr., who is personally known to me to be the same person whose name is subscribed to the foregoing instrument of writing as secretary, as party thereto, and acknowledged the said instrument to be the act and deed of the St. Louis Smelting and Refining Com-
99 pany, executed by him as such secretary, for the uses and purposes therein set forth.

In witness whereof, I have hereunto set my hand and affixed my official seal, at St. Louis, in the State of Missouri, this twenty-seventh day of August, in the year one thousand eight hundred and seventy-eight.

{Seal of C. D. Green, Jr., Commissioner of Deeds, at St. Louis city and county, Missouri.}

C. D. GREENE, JR.,
Commissioner for Colorado at St. Louis, Missouri.

STATE OF MISSOURI, *City of St. Louis,* } *ss:*

I, Charles D. Greene, Jr., a commissioner for Colorado, resident at St. Louis, Missouri, hereby certify that on this twelfth day of September, A. D. 1878, before me personally came Edwin Harrison, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument of writing as president, as party thereto, and acknowledged the said instrument to be the act and deed of the St. Louis Smelting and Refining Company, executed by him as such president, for the uses and purposes therein set forth.

{Seal of C. D. Greene, Jr., Commissioner of Deeds at St. Louis city and county, Missouri.}

In witness whereof, I have hereto set my hand and official seal, at St. Louis, Missouri, this twelfth day of September, A. D. 1878.

C. D. GREENE, JR.,
Commissioner for Colorado at St. Louis, Missouri.

(Endorsed:) Filed in the office of the Secretary of State, Aug., 1878, at 9 o'clock A. M., and recorded in book , page . Wm. M. Clark, Secretary of State. B.

100 *Certificate.*

STATE OF COLORADO, } ss:
Secretary's Office, }

I, N. H. Meldrum, Secretary of State of the State of Colorado, do hereby certify that the foregoing is a true and correct transcript of the certificate of the principal place of business and designated agent in the State of Colorado of the St. Louis Smelting and Refining Company, which was filed in my office, together with a correct copy of the filing endorsed upon the back thereof in said office.

In testimony whereof, I have hereto set my hand and affixed the great seal of the State, at the city of Denver, this twelfth day of September, A. D. 1879.

{ Great Seal of the State. }

(Signed) N. H. MELDRUM,
Secretary of State.

(Endorsed:) Certificate of the principal place of business and designated agent of Colorado of the St. Louis Smelting and Refining Company; certified copy; Weise, agent; filed Aug. 27, '78; Exhibit G of Pl'ffs; 11 | 25 | 79; J. W. Christy, sten'g'r.

STATE OF MISSOURI, ss:

I, Michael K. McGrath, Secretary of State of Missouri, hereby certify that the annexed pages contain a full, true, and complete copy of the certificate of corporate existence issued on the 18th day of May, A. D. eighteen hundred and seventy-one, to the St. Louis
101 Smelting and Refining Company, as the same appears of record in my office.

In testimony whereof, I have hereunto set my hand and affixed the great seal of the State of Missouri. Done at my office, in the city of Jefferson, this twenty-ninth day of June, A. D. eighteen hundred and seventy-eight.

{ Great seal of the State of Missouri. }

MICH'L K. McGRATH,
Secretary of State.

STATE OF MISSOURI,
OFFICE OF SECRETARY OF STATE,
[No. 222.] CITY OF JEFFERSON, *May 18th*, 1871.

Whereas George H. Loker, Edwin Harrison, J. L. Howard, and others, have filed in this office a certificate or declaration in writing, as provided in section 4, article 1, chapter 37 of Wagner's Statutes of the State of Missouri, setting forth all the facts therein required, and having in all respects complied with the requirements of law

governing the formation of private corporations for manufacturing and business purposes, as contained in articles I and VII of chapter 37 of said statutes:

Now, therefore, I, Eugene F. Weigel, Secretary of State for the State of Missouri, in virtue and by authority of law, do hereby certify that said parties, their associates and successors, have become a body politic and corporate under the corporate name of "The St. Louis Smelting and Refining Company," and by that name
102 have the right to sue and be sued, purchase, hold, and convey real and personal property, and to have and enjoy all the rights and privileges granted to manufacturing and business corporations under the laws of this State, subject to their articles of association, and all legal restrictions and liabilities in relation thereto.

In testimony whereof, I have hereunto set my hand and affixed the great seal of the State of Missouri. Done at the city of Jefferson this 18th day of May, A. D. 1871.

EUGENE F. WEIGEL,
[SEAL.] *Secretary of State.*

STATE OF COLORADO, *Secretary's Office,* } ss:

I, Norman H. Meldrum, Secretary of State of the State of Colorado, do hereby certify that the foregoing is a correct transcript of the certified copy of the certificate of corporate existence issued on the 18th day of May, A. D. 1871, to the St. Louis Smelting and Refining Company, which was filed in this office the thirteenth day of July, A. D. 1878, at 9.30 o'clock A. M., and admitted to record.

In testimony whereof, I have hereunto set my hand and affixed the great seal of the State, at the city of Denver, this twelfth day of September, A. D. 1879.

{Great Seal of the State.} (Signed) N. H. MELDRUM,
Secretary of State.

(Endorsed:) Certificate of Incorporation of the St. Louis Smelting and Refining Company; certified to by Sec'y of State of Missouri; Plff's Exhibit H; 11 | 23 | 79; J. W. Christy, steng'r.

103 To the introduction of which certified copies of papers, defendants, by their counsel, objected, on the ground of immateriality. The court admitted said instruments in evidence; to which ruling of the court, in admitting said papers in evidence, the defendants, by their counsel, then and there excepted.

Plaintiff, by its counsel, then offered in evidence a deed from Thomas Starr to the St. Louis Smelting and Refining Company, dated August 27, 1877, for the purpose of showing that the possessory title was in plaintiff to this property, and we propose to follow this up by proof, if the court please, that we entered into the posses-

sion of this ground, and commenced the erection of smelting works upon it in that place in June, 1877, marked exhibit "I," which is in the words and figures following, to wit:

This deed, made this twenty-seventh day of August, in the year of our Lord one thousand eight hundred and seventy-seven, between Thomas Starr, of Lake county, State of Colorado, of the first part, and the St. Louis Smelting and Refining Company, a corporation existing under the laws of the State of Missouri, of the second part:

Witnesseth, That the said party of the first part, for and in consideration of the sum of one dollar and of other good and valuable considerations to the said party of the first part in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, has remised, released, sold, conveyed, and quit-
104 claimed, and by these presents does remise, sell, convey, and quit-claim unto the said party of the second part, and to his heirs and assigns forever, all the right, title, interest, claim, and demand which the said party of the first part has in and to the following described tract of land, situate, lying, and being in the county of Lake and State of Colorado, to wit:

Beginning at corner No. 1, where stands a cornered post, said post bears from United States locating monument No. 1, established by J. S. Titcomb, United States deputy mineral surveyor in California mining district, north 50° 38′ E. ten hundred and seventy (1070) feet; thence S. 16° 20′ E. twelve hundred and thirty-one (1231) feet to corner No. 2; thence N. 88° 15′ E. five hundred and seventeen (517) feet to corner No. 3; thence north 16° 20′ west two hundred (200) feet to corner No. 4; thence N. 70° 30′ E. two hundred and forty-five (245) feet to corner No. 5; thence N. 78° 45′ E. two hundred and forty-one (241) feet to corner No. 6; thence N. 3° W. fifty-nine (59) feet to corner No. 7; thence N. 16° 20′ W. one hundred and thirty-seven (137) feet to corner No. 8; thence N. 88° 5′ E. sixty-seven (67) feet to corner No. 9; thence N. 6° 50′ W. six hundred and fifty-nine (659) feet to corner No. 10; thence N. 27° 40′ E. three hundred and fifty-four (354) feet to corner No. 11; thence N. 29° 40′ W. twenty-eight (28) feet to corner No. 12; thence S. 73° 40′ W. fourteen hundred and thirteen (1413) feet to the place of beginning; said tract contains thirty-one and sixty one-hundredths ($31\frac{60}{100}$) acres more or less. In all the aforementioned courses the variation of the compass is reckoned to be 15 degrees east of the true meridian.

To have and to hold the same, together with all and singular the appurtenances and privileges thereunto belonging, or in anywise thereunto appertaining, and all the estate, right, title, interest,
105 and claim whatsoever of the said party of the first part, either in law or equity, to the only proper use, benefit, and behoof of the said party of the second part, and to his heirs and assigns forever.

In witness whereof, the said party of the first part has hereunto set his hand and seal the day and year first above written.

(Signed) THOMAS STARR. [SEALED.]

Signed, sealed, and delivered in presence of—

STATE OF COLORADO, } ss:
Lake County, }

I, A. S. Weston, a notary public in for said county, in the State aforesaid, do hereby certify that Thomas Starr, personally known to me as the person whose name is subscribed to the annexed deed, appeared before me this day in person and acknowledged that he signed, sealed, and delivered the said instrument of writing as his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 27th day of August, A. D. 1877.

[NOTARY'S SEAL.] (Signed) A. S. WESTON,
Notary Public.

(Endorsed:) Quit-claim Deed; Thomas Starr to St. Louis Co., No. 1885. State of Colorado, county of Lake, ss: Filed for record at 2 P. M., April 7th, A. D. 1879, and recorded in Book 14, page No. 257. (Signed) Jos. H. Wells, recorder; Fees $2.00, B; Pl'tiff's Exhibit I; 11 | 25 | 79; J. W. Christy, steng'r; St. L. S. & R. Co.

106 To the introduction of which deed defendants objected, because it was immaterial and incompetent, but the court admitted said deed in evidence; to which ruling of the court in admitting said deed, defendants, by their counsel, then and there duly excepted.

Herman Huber, being called and sworn in behalf of plaintiff, testified as follows: Am a surveyor and civil engineer by profession; know the ground in dispute; made the survey and laid off the lots in the St. Louis Smelting and Refining Company's addition to the city of Leadville; know the description of land mentioned in the United States patent to Starr and in the deed from Starr to Meyer, and also in the deed from Meyer to the St. Louis Smelting & Refining Company, and know, from an examination of the description in the patent and in the deeds which I have before examined, that the ground or lots in dispute in this case is included within the land described in the said patent and deeds.

The court here stated that plaintiff had already shown that they were occupying this property for the purpose of smelting works, and that it was affirmatively proven that plaintiff has got 26 acres of ground; that they are occupying part of it for their works, and that if defendants contended it was excessive, they could, on their part, so undertake to prove.

107 The plaintiff here rested his case.

And thereupon the defendants gave in evidence on their behalf as follows, that is to say:

Defendants, by their counsel, here offered in evidence transcript of land office proceedings, from the application for patent to the issuance of the Starr placer patent, with certificate of Land Commis-

sioner, dated May 29, 1879, marked Defendant's Exhibit No. "1," for the purpose of showing different locations or a number of locations; the fact that these locations were all combined in one location; for the purpose of showing that the location upon which patent was issued was directly contrary to the law; to show that several locations were included in the patent, though it purported to be for one; that the great bulk of the locations were made subsequent to 1872, and that but a very small quantity of the land embraced in the patent was located prior to 1870, seven-tenths of it being located in 1877, which is in the words and figures following, to wit:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., *May* 29, 1879.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed copy of the application of Thomas Starr for patent to his placer mining claim, embraced in survey No. 255 in California mining district, Lake county, Colorado, and of the proof on which mineral entry No. 182 for said claim was made,
108 March 6, 1879, in the United States Land Office at Fairplay, Colorado, is a true and literal exemplification from the original papers now on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

{Seal of General Land Office.} (Signed) J. A. WILLIAMSON,
Commissioner of General Land Office.

LEADVILLE, COLORADO, *June* 5, 1878.

Mr. Thomas Starr, To the Lake County Reveille, Dr.
(Job work must be paid for on delivery.)
Mar. 23. To application for U. S. patent for placer lands in Lake county; 10 insertions..... $45.00
Rec'd payment, RICHARD S. ALLEN.

Mining Application No. 177.

UNITED STATES LAND OFFICE,
FAIRPLAY, COLORADO, *March* 18, 1878.

Notice is hereby given that Thomas Starr, whose post-office is Leadville, Lake county, Colorado, has made application for a patent for 164.61 acres of the Starr Placer Claim, situate in California mining district, in Lake county, State of Colorado, and described in the official plat and field-notes on file in this office, as follows, viz.:

Beginning at corner No. 1, whence the U. S. locating mon-
109 ument No. 1 bears S. 89° 45′ E. 418 feet; thence from corner No. 1 S. 17° 50′ E. 1437 feet; thence N. 63° 30′ E. 515 feet;

thence N. 68° 00′ E. 289.50 feet; thence N. 84° 28′ E. 179 feet; thence S. 89° 00′ E. 215 feet; thence S. 82° 19′ E. 277.50 feet; thence S. 77° 42′ E. 169.50 feet; thence S. 63° 30′ E. 332 feet; thence S. 62° 50′ E. 197 feet; thence N. 38° 20′ — 620 feet; thence S. 62° 30′ E. 17 feet; thence S. 42° 55′ E. 950 feet; thence S. 28° 30′ E. 150 feet; thence N. 49° 30′ E. 598 feet; thence N. 49° 05′ W. 1,088 feet; thence N. 26° 24′ E. 486 feet; thence N. 64° 00′ W. 200 feet; thence N. 26° 00′ E. 915 feet; thence N. 75° 18′ W. 1,027 feet; thence N. 28° 20′ W. 370.40 feet; thence N. 0° 03′ E. 607 feet; thence N. 14° 17′ W. 136.94 feet; thence N. 62° 00′ E. 333.50 feet; thence N. 68° 30′ E. 500 feet; thence N. 75° 35′ E. 500 feet; thence S. 69° 51′ E. 500 feet; thence S. 70° 00′ E. 500 feet; thence N. 39° 30′ W. 500 feet; thence N. 70° 00′ W. 500 feet; thence N. 69° 51′ W. 500 feet; thence S. 75° 35′ W. 500 feet; thence S. 68° 30′ W. 500 feet; thence S. 62° 00′ W. 114 feet; thence N. 14° 17′ W. 933 feet; thence N. 31° 55′ W. 328.50 feet; thence N. 14° 14′ W. 240.80 feet; thence N. 2° 00′ E. 424 feet; thence N. 2° 35′ E. 442 feet; thence N. 10° 50′ E. 560.70 feet; thence N. 10° 37′ E. 841 feet; thence N. 32° 07′ E. 482.20 feet; thence N. 49° 13′ E. 155.50 feet; thence N. 78° 42′ E. 142 feet; thence N. 55° 00′ E. 141 feet; thence N. 59° 42′ — 100 feet; thence S. 70° 08′ E. 249.50 feet; thence N. 50° 00′ E. 166.50 feet; thence S. 80° 10′ E. 180 feet; thence S. 74° 15′ E. 97 feet; thence S. 40° 28′ E. 125 feet; thence N. 30° 56′ E. 50 feet; thence N. 43° 32′ W. 150 feet; thence N. 74° 15′ W. 97 feet; thence N. 80° 10′ W. 180 feet; thence S. 50° 00′ W. 166.50 feet; thence N. 70° 08′ W. 249.50 feet; thence S. 72° 54′ W. 28.50 feet; thence S. 57° 00′ W. 126 feet; thence S. 44° 00′ W. 69 feet; thence S. 65° 10′ W. 75 feet; thence S. 89° 52′ W. 81 feet; thence S. 62° 50′ W. 70 feet; thence S. 35° 24′ W. 54.50 feet; thence S. 56° 20′ W. 104 feet; thence S. 39° 00′ W. 192 feet; thence S. 27° 36′ W. 292.50 feet; thence S. 20° 40′ W. 157.40 feet; thence S. 10° 22′ W. 245 feet; thence S. 7° 15′ W. 445.50 feet; thence S. 15° 15′ W. 256.50; thence S. 8° 26′ W. 303 feet; thence S. 3° 06′ W. 375 feet; thence S. 7° 40′ E. 70.50 feet; thence S. 4° 10′ W. 297 feet; thence S. 1° 10′ E. 157 feet; thence S. 15° 20′ E. 222.50 feet; thence S. 30° 10′ E. 347.50 feet; thence S. 13° 10′ E. 580 feet; thence S. 1° 20′ E. 600 feet; thence S. 29° 40′ E. 330.50 feet; thence S. 73° 40′ W. 1,411 feet; thence S. 16° 20′ E. 653 feet; thence S. 88° 05′ W. 1,428.50 feet to corner No. 1, containing 164.61 acres, exclusive of .39 of acre of survey No. 158. Said location being recorded in vol. 10, pages 122 and 254 of the records of Lake county. Adjoining claimants: A. B. Wood *et al.*, now Stevens and Leiter, on the N. west; and Ord Mining, Ditch, and Fluming Co.'s claims, survey No. 258, on the south.

JNO. J. HENRY,
Register.
WM. K. BURCHINELL,
Receiver.

5–10–6

OFFICE OF LAKE COUNTY REVEILLE,
111 R. S. ALLEN, PROPRIETOR,
LEADVILLE, COLORADO, *June* 5, 1878.

I, Richard S. Allen, do hereby certify that I am the publisher and proprietor of the Lake County Reveille, published at Leadville, in the county of Lake and State of Colorado, and that the annexed notice was published for ten consecutive weeks and eleven times in said newspaper, the first publication being on the 23d day of March, A. D. 1878, and the last publication on the 1st day of June, A. D. 1878.

RICHARD S. ALLEN.

STATE OF COLORADO, }
County of Lake. }

Subscribed and sworn to before me this fifth day of June, A. D. 1878.

CHAS. CAVENDER,
Notary Public.

{ Chas. Cavender, Notary Public, Lake county, Colorado. }

(Endorsed:) Proof of Publication; case of the Starr Placer Claim, sur. No. 255, dist. No. 3, in Lake county, Colorado; applicant, Thomas Starr; filed in the United States land office at Fairplay, Colorado, on the 18th day of June, 1878; Jno. J. Henry, register.

Proof of Plat and Notice Remaining Posted in U. S. Land Office 60 days.

I, John J. Henry, register of the United States land office at Fairplay, Colorado, do hereby certify that on the 10th day of March, 1878, the official plat representing the Starr Placer Claim, situated in California mining district, in Lake county, Colorado, and also a notice by the register of said United States land office that
112 Thomas Starr had made application for a patent therefor, were posted in a conspicuous place in said United States land office where they could be easily seen and examined, and that said plat and notice remained so posted in said land office continuously from said date of posting until the 30th day of May, 1878, being for the full period of the same, (sixty days,) during which the notice by said register that said above-named applicant had made application for a patent for said mining claim was published in the Lake County Reveille, the newspaper designated by the register as being published nearest to said claim, and a printed copy of said notice so posted in said United States land office is hereto attached and made a part of this certificate. And I further certify that no adverse claim against said Starr Placer Claim has been or was filed in said United States land office during said sixty days' publication of said notice, nor has any such adverse claim been filed since the expiration of said sixty days' publication.

Given under my hand, in the United States Land Office at Fairplay, Colorado, on this 18th day of June, A. D. 1878.

JNO. J. HENRY.

(Endorsed:) Proof of plat and notice remaining posted in United States Land Office 60 days; case of the Starr Placer Claim; survey No. 255, dist. No. 3, in Lake county, Colorado; applicant, Thomas Starr; filed in the United States Land Office at Fairplay, Colorado, on the 18th day of June, 1878; Jno. J. Henry, register.

WILLIAM S. BALLOW,
Notary Public,
Lake County, Colorado.

{ William S. Ballow, Notary Public, Lake Co., Colorado. }

STATE OF COLORADO, *Lake County,* } *ss:*

I, Joseph H. Wells, clerk of the District Court of the Fourth
113 Judicial District held within and for the said county of Lake, the same being a court of record having a clerk and seal, do hereby certify that William S. Ballow is a notary public within and for said county and State, duly appointed by the Governor of Colorado, commissioned and sworn and duly qualified to do and perform all and every act and acts which notaries public are authorized to do and perform under and by virtue of the laws of the State of Colorado, among which is the power to take the proofs and acknowledgments of deeds and administer oath; that the term of office of the said William S. Ballow as such notary public began on the 14th day of May, A. D. 1878, and ends on the 14th day of May, 1882; that I am acquainted with the handwriting of the said William S. Ballow and his official seal, and that the signature above written and official seal above affixed, purporting to be his official seal and signature, were written and made by him, and are his original and genuine official signature and seal.

In testimony whereof, witness my hand and the seal of said court at Granite, the county-seat of said county of Lake, this 14th day of December, A. D. 1878.

JOS. H. WELLS,
Dist. Clerk,
Lake Co., Colo.

{ District Court 4th Judicial [SEAL] District, Lake county, Colorado. }

114 *Application for Patent.*

Case of the Star Placer Claim, situate in California Mining District, in Lake county, Colorado.

To the Register and Receiver of the United States Land Office at Fairplay, Colorado:

Thomas Starr, being duly sworn, on oath deposes and says that he is a citizen of the United States over the age of twenty-one years; that in virtue of a compliance with the mining rules, regulations,

customs, and laws by himself, he, the said Thomas Starr, applicant for ——— herein, has become the owner of, and is in the actual, quiet, and undisturbed possession of, and is entitled to the possession of one hundred and sixty-four acres and sixty-one one-hundredths (161.61) of an acre of placer mining land, situate in California Mining District, in Lake county and State of Colorado, and being more particularly set forth and described in the official field-notes of the survey thereof hereto attached, dated February 8th, 1878, said survey being designated by the surveyor general of Colorado as survey No. 255, district No. 3.

Deponent further states that the facts relative to the right of possession of himself to said placer mining claim so surveyed are substantially as follows, to wit:

This affiant is the owner of said claim by purchase and by location.

This affiant and his grantors have dug and constructed upon said mining claim a placer mining ditch, which is ten thousand and three hundred (10,300) feet in length by eight feet wide by eighteen inches deep, and is used for conveying water to the placer mines upon said claim; said ditch was dug in the years 1860 & 61.

This affiant or his grantors have worked and mined at placer mining upon said mining claim during the placer mining season
115 of each and every year since the year 1861, and have excavated and removed the surface earth and gravel to the depth of six feet to fifteen feet from and over a space of about twenty acres in the prosecution of said placer mining work. This affiant has erected and built a dwelling-house 16 feet x 30 feet and two stories high, also a basin 18 feet x 20 ft., both upon said mining claim. The value of the labor done and improvements made upon said mining claim by the claimant and by the grantors of the claimant is more than twenty thousand dollars.

The abstract of title herewith filed is not fully complete and perfect, but it contains all there is to be found of record in the records of Lake county, and if any portions of said mining claim have been recorded in the local district records in years past, then such portions are not described sufficiently definite to give information as to the location of the ground therein recorded.

There has been no litigation or opposition to the possession of this affiant or his grantors in and to said mining claim, except what has long since ceased, and there has been no litigation whatever affecting the possession of or title to said claim or any part thereof for a period equal to the time fixed by the statute of limitations for mining claims in the State of Colorado, other than that which has finally been decided in favor of this affiant or his grantors. In consideration of which facts, and in conformity with the provisions of the mining laws, application is hereby made for and in behalf of
116 this affiant for a patent from the Government of the United States for $164\frac{61}{100}$ acres of the said Starr Placer Claim as officially surveyed and platted.

This affiant is well acquainted with the said Starr Placer Claim,

and for many years has resided near to, and for *several* years has *resided upon* said mining premises, and that no known vein or veins of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, or copper, exist on said mining claim, or on any part thereof, so far as he knows, and he verily believes that none exist thereon.

THOMAS STARR.

Subscribed and sworn to by Thomas Starr before me, in my office, in the town of Leadville, in the county of Lake, in the Fairplay Land District, in the State of Colorado, on this fifteenth day of March, A. D. 1878; and I hereby certify that I consider the above deponent a credible and reliable person, and that the foregoing affidavit, to which was attached the field-notes of survey of the Starr Placer Claim, survey No. 255, district No. 3, was read and examined by him before his signature was affixed thereto and the oath made by him.

C. E. ANDERSON,
Notary Public, Lake Co., Colo.

{ Chas. E. Anderson, Notary Public, Lake Co., Colorado. }

William Bernes and William H. Maine, each being first duly sworn, deposes and says upon his oath that he has read and examined the herein foregoing affidavit of Thomas Starr; that he is well acquainted with the Starr Placer Claim described in said affidavit; that the statements made in said affidavit relative to the right of possession and occupancy of Thomas Starr thereto, and relative to the working of and improvements upon said mining claim, are
117 true; and this affiant has no interest whatever in said mining claim. Affiant further says that he is a citizen of the United States over the age of twenty-one years.

WILLIAM BERNES.
WILLIAM H. MAINE.

Subscribed and sworn to by William Bernes and William H. Maine before me, in my office, in the town of Leadville, in the county of Lake, in the Fairplay Land District, and the State of Colorado, on this fifteenth day of March, A. D. 1878.

C. E. ANDERSON,
Notary Public, Lake Co., Colo.

Survey No. 255, *District No.* 3.

Transcript of field-notes of the survey of the claim of Thomas Starr, upon the placer in California Mining District, Lake county, Colorado. Surveyed by C. C. Baldwin, U. S. deputy surveyor.

Survey begun October 1st, 1877, and completed October 5th, 1877.

Beginning at cor. No. 1, a granite rock 14x10x5, planted 7 in. deep, marked I–255, which bears from U. S. locating

FEET.

monument No. 1, established by J. S. Titcomb, a deputy U. S. mineral surveyor, N. 89° 45′ W. 418 feet.
Variation in all courses 15° E. Thence S. 17° 50′ E.
357 to road, course S. 74° 30′ W.
1040 " " " S. 78° W.
1170 " bank of placer works.
1285 " creek 3 ft. wide, course S. 75° W.
1400 " bank of placer works.
1437 " cor. No. 2, a granite rock 16x12x3½, planted 8 in. deep, marked II–255. Thence N. 63° 30′ E. 118
515 to cor. No. 3, a granite rock 16x8x8, planted 8 in. deep, marked III–255 same as cor. 3, sur. No. 158.
Thence N. 68° E.
289.5 to cor. No. 4, a granite rock 19x10x4, planted 10 in. deep, marked IV–255, same as cor. 4, sur. No. 158.
Thence N. 84° 28′ E.
179 to cor. No. 5, a granite rock 10x10x6, planted 10 in. deep, marked V–255.
Thence S. 89° E.
215 to cor. No. 6, a granite rock 18x10x5, planted 10 in. deep, marked VI–255.
Thence S. 82° 19′ E.
277.5 to cor. No. 7, a granite rock 18x14x3½, planted 12 in. deep, marked VII–255.
Thence S. 77° 42′ E.
11.5 to intersection with 6th course, sur. No. 158.
169.5 to cor. No. 8, a granite rock 18x10x6, planted 10 in. deep, marked VIII–255.
Thence S. 63° 30′ E.
332 to cor. No. 9, a granite rock 16x8x6, planted 10 in. deep, marked IX–255.
Thence S. 62° 50′ E.
197 to cor. No. 10, granite rock 16x14x6, planted 8 in. deep, marked X–255.
Thence N. 38° 21′ E.
3 to bank of placer works.
103 to creek, course N. 62° W.
450 to bank of placer works.
544 to road, course N. 63° W.
620 to cor. No. 11, a granite rock 18x9x6, planted 8 in. deep, marked XI–255.
Thence S. 62° 30′ E.
17 to cor. No. 12, granite rock 16x9x8, planted 8 in. deep, marked XII–255.
Thence S. 42° 55′ E.
318 to Oro ditch, course from N., S. 10° 30′ E., to the S., S. 26° W.
347 across ditch.
774 to ditch, course S. 35° E. 119

FEET.

925 to bank of ditch, course S. 27° E.

950 to cor. No. 13, a porphyry rock 20x14x6, planted 10 in. deep on S. side of ditch, marked XIII–255.

Thence S. 28° 30′ E.

150 to cor. No. 14, a granite rock 15x7x5, planted 8 in. deep, marked XIV–255.

Thence N. 49° 30′ E.

6 across ditch, course S. 29° E.

96 to road, course N. 29° W.

598 to cor. No. 15, a granite rock 15x10x8, planted 8 in. deep, marked XV–255.

Thence N. 49° 5′ W.

920 to ditch, course southeasterly.

1088 to cor. No. 16, a sandstone 24x16x6, planted 12 in. deep, marked XVI–255.

Thence N. 26° 24′ E.

62 to ditch, course southeasterly.

486 to cor. No. 17, granite rock 14x10x3½, planted 8 in. deep, marked XVII–255, from which Mt. Elbert bears S. 45° 20′ W; high mountain peak (name unknown) bears S. 5° 55′ W.; Massive Mt. bears S. 71° 27′ W.

Thence N. 64° W.

200 to cor. No. 18, a porphyry rock, 21x12x3, planted 8 in. deep, marked XVIII–255. Thence N. 26° E.

915 to cor. No. 19, a granite rock 20x8x4, planted 10 in. deep, marked XIX–255, from which a blazed pine 12 in. in dia., marked XIX–255, bears S. 14° 28′ E. 32 ft., a blazed pine 16 in. dia., marked XIX–255, bears N. 57° 25′ E. 17.5 ft. Thence N. 75° 18′ W.

911 to ditch, course S. 25° E.

1027 to cor. No. 20, a granite stone 20x8x4, planted 14 in. deep, marked XX–255. Thence N. 28° 20′ W.

370.4 to cor. No. 21, a granite rock 14x10x8, planted 8 in. deep, marked XXI–255. Thence N. 0° 3′ E. 120

585 to Stray Horse Creek, course S. 60° W.

607 to cor. No. 22, a granite rock 14x9x6, planted 6 in. deep, marked XXII–255. Thence N. 14° 17′ W.

57 to road, course S. 58° 30′ W.

136.94 to cor. No. 23, a granite rock 14x9x7, planted 8 in. deep, marked XXIII–255. Thence N. 62° E.

180 to road, course S. 58° W.

333.5 to cor. No. 24, a granite rock 18x8x4, planted 10 in. deep, marked XXIV–255. Thence N. 68° 30′ E.

25 to Stray Horse Creek, course S. 60° W.

500 to cor. No. 25, a granite rock 18x12x10, planted 10 in. deep, marked 25–255. Thence N. 75° 35′ E.

500 to cor. No. 26, a granite stone 18x9x7, planted 10 in. deep, from which a pine 18 in. dia., marked 26–255, bears S.

FEET.

180 to cor. No. 55, a granite rock 14x10x6, planted 8 in. deep, marked 55–255.

Thence S. 50° W.

166.5 to cor. No. 56, a granite rock 16x8x5, planted 10 in. deep, marked 56–255.

Thence N. 70° 8′ W.

249.5 to cor. No. 57, a granite rock 15x8x7, planted 8 in. deep, marked 57–255.

Thence S. 72° 54′ W.

28.5 to cor. No. 58, a granite rock 14x10x4, planted 9 in. deep, marked 58–255.

Thence S. 57° W.

126 to cor. No. 59, a granite rock 16x9x7, planted 7 in. deep, marked 59–255.

Thence S. 44° W.

69 to cor. No. 60, a granite rock 14x10x4, planted 7 in. deep, marked 60–255.

Thence S. 65° 10′ W.

75 to cor. No. 61, a granite rock 15x9x6, planted 6 in. deep with mound of stone, and marked 61–255.

Thence S. 89° 52′ W.

81 to cor. No. 62, a granite rock 15x8x6, planted 10 in. deep, marked 62–255.

Thence S. 62° 50′ W.

70 to cor. No. 63, a granite rock 14x10x8, planted 8 in. deep, marked 63–255.

Thence S. 35° 24′ W.

54.5 to cor. No. 64, a granite rock 14x8x7, planted 7 in. deep, marked 64–255.

Thence S. 56° 20′ W.

104 to cor. No. 65, a granite rock 15x10x3, planted 9 in. deep, marked 65–255. 124

Thence S. 39° W.

192 to cor. No. 66, a granite rock 17x9x4, planted 8 in. deep with mound of stone, and marked 66–255.

Thence S. 27° 36′ W.

292.5 to cor. No. 67, a granite rock 17x9x6, planted 10 in. deep, marked 67–255.

Thence S. 20° 40′ W.

157.4 to cor. No. 68, a granite rock 16x7x4, planted 8 in. deep, marked 68–255.

Thence S. 10° 22′ W.

245 to cor. No. 69, a granite rock 16x8x6, planted 9 in. deep, marked 69–255.

Thence S. 7° 15′ W.

445.5 to cor. No. 70, a granite rock 20x9x7, planted 11 in. deep, marked 70–255.

Thence S. 15° 50′ W.

FEET.	
256.5	to cor. No. 71, a granite rock 14x10x7, planted 8 in. deep, marked 71–255.
	Thence S. 8° 26′ W.
303	to cor. No. 72, a granite rock 20x7x5, planted 10 in. deep, marked 72–255.
	Thence S. 3° 6′ W.
375	to cor. No. 73, a granite rock 14x5x5, planted 8 in. deep, marked 73–255.
	Thence S. 7° 40′ E.
70.5	to cor. No. 74, a granite rock 13x8x6, planted 7 in. deep, marked 74–255.
	Thence S. 4° 10′ W.
297	to cor. No. 75, a granite rock 14x8x6, planted 8. in deep, marked 75–255.
	Thence S. 1° 10′ E.
157	to cor. No. 76, a granite rock 13x6x4, planted 8 in. deep, marked 76–255.
	Thence S. 15° 20′ E.
222.5	to cor. No. 77, a granite rock 13x6x6, planted 8 in. deep, marked 77–255.
	Thence S. 30° 10′ E.
347.5	to cor. No. 78, a granite rock 15x10x4, planted 8 in. deep, marked 78–255.
	Thence S. 13° E.
150	to cor. No. 79, a granite rock 16x10x4, planted 6 in. deep with mound of stones, and marked 79–255. 125
	Thence S. 13° 10′ E.
550	to road, course S. 58° 30′ W.
580	to cor. No. 80, a granite rock 15x10x6, planted 8 in. deep, marked 80–255.
	Thence S. 10° 20′ E.
600	to cor. No. 81, a granite rock 14x8x6, planted 9 in. deep, marked 81–255.
	Thence S. 29° 40′ E.
330.5	to cor. No. 82, a granite rock 16x10x5 in mound of stones, and marked 82–255.
	Thence S. 73° 40′ W.
775	to road, course S. 10° E.
867	to Oro Co.'s ditch, course S. 10° E.
880	across ditch.
1411	to cor. No. 83, a granite rock 14x9x6, planted 8 in. deep, marked 83–255.
	Thence S. 16° 20′ E.
653	to cor. No. 84, a granite rock 18x7x7, planted 12 in. deep, and marked 84–255.
	Thence S. 88° 5′ W.
1428.5	to cor. No. 1, the place of beginning.

Containing 164.61 acres, exclusive of the position of sur. 158, as indicated in plat, consisting of .39 acres.

The improvements consist of placer or gulch mining and a ditch known as the Starr ditch, a house 16x30 feet, a stable 18x20 feet, which were placed on the ground or claim *by* the *claimant*, and the value of the labor and improvements is not less than *five hundred dollars*, and probably amounts to ten thousand dollars.

126 Adjoining claimants: Southwest, survey 158, the Oro Mining & Fluming Co.'s Placer Claim; west, A. B. Woods Co.'s Placer Claims.

List of the names of individuals employed to assist in *mi*ning, measuring, and *wo*rking the lines and corners described in the foregoing field-notes of the survey of the claim of Thomas Starr, upon the placer in California Mining District, Lake county, Colorado: Thos. E. Barrett, Charles S. Bradt.

We hereby certify that we assisted C. C. Baldwin, U. S. deputy mineral surveyor, in surveying the extension boundaries and marking the corners of the claim of Thomas Starr upon the placer in California Mining District, Lake county, Colorado; and that said survey has been in all respects, to the best our of knowledge and belief, well and faithfully surveyed, and the boundary monuments planted according to the instructions furnished by the surveyor-general.

CHARLES S. BRADT.
THOMAS E. BARRETT.

Subscribed and sworn to by the above-named persons, before me, this 8th day of October, 1877.

[SEAL.] A. S. WESTON,
Notary Public.

I, C. C. Baldwin, U. S. deputy mineral surveyor, do solemnly swear that in pursuance of an order from William L. Campbell, surveyor-general of the public lands in the State of Colorado, bearing date the fourth of September, 1877, and in strict conformity to the laws of the United States and instructions furnished by said surveyor-general,

127 I have faithfully surveyed the claim of Thomas E. Starr upon the placer in California Mining District, Lake county, Colorado; and do further solemnly swear that the foregoing are the true and original field-notes of such survey.

C. C. BALDWIN,
U. S. Deputy Mineral Surveyor.

Subscribed by said C. C. Baldwin, U. S. deputy mineral surveyor, and sworn to before me this 8th day of October, 1877.

[SEAL.] A. S. WESTON,
Notary Public.

I certify that the foregoing transcript of the field-notes of the survey of the mining claim of Thomas Starr, situated in California Mining District, county of Lake and State of Colorado, has been

correctly copied from the original notes of said survey on file in this office; that said field-notes furnish such an accurate description of said mining claim as will, if incorporated into a patent, serve fully to identify the premises, and that such reference is made therein to natural objects and permanent monuments as will perpetutate and fix the locus thereof.

I further certify that the value of the labor and improvements upon the said mining claim, as shown by the report of the deputy surveyor, placed thereon by said claimant and his grantors, is not less than five hundred dollars, and that said improvements consist of ditch, gulch, and placer workings.

I further certify that the plat thereof filed in the U. S. Land Office at Fairplay is correct, and in conformity with the foregoing field-notes.

WILLIAM L. CAMPBELL,
U. S. Surveyor General of Colorado.

U. S. SURVEYOR GENERAL'S OFFICE,
DENVER, COLORADO, February 8th, 1878.

128 (Endorsed:) Application for patent and field-notes; case of the Starr Placer Claim, sur. No. 255, dist. No. 3, Lake county, Colorado; applicant, Thomas Starr; filed in the United States Land Office at Fairplay, Colorado, on the 18th day of March, 1878; John J. Henry, register; Fred. C. Morse, Fairplay, Colorado, attorney for the applicant.

Proof of Sums Paid.

STATE OF COLORADO, } *ss:*
County of Lake, }

Thomas Starr, having been first duly sworn according to law, deposes and says that he is a citizen of the United States over the age of twenty-one years; that he is the applicant for patent to 164 $\frac{61}{100}$ acres of placer land, sur. No. 255, dist. No. 3, in California Mining District, in Lake county, Colorado; that in the prosecution of such application he has paid the following sums of money, viz.:

For office work in Surveyor General's Office	$25 00
To C. C. Baldwin, deputy surveyor, for surveying and platting	234 00
To register and receiver for filing in local land office	10 00
To R. S. Allen, publisher of Lake county Reveille, for publication of notice of application	45 00
To advertising the notice of hearing	
To register and receiver the applicant's fees in the hearing case	80 00
	$394 00

THOMAS STARR.

129 Subscribed and sworn to before me this 20th day of December, 1878.

[SEAL.] D. HOUGHTON, *Notary Public.*

(Endorsed:) Proof of sums paid; U. S. land office, Colorado; filed and approved this day of ,187 ; —— ———, register; —— ———, receiver.

Law of Limitations.

"Be it enacted by the Council and House of Representatives of Colorado Territory:

1. That every person in the peaceable and undisputed possession of lands, as tenements, including mining claims, under claim and color of title made in good faith, including pre-emptions made in accordance with the laws of Colorado Territory, or any mining district wherein such property may be situate, who shall for five successive years hereafter continue in such possession, and shall also during said time pay all taxes legally assessed on such lands, tenements, or mining claims, shall be adjudged to be the legal owners of said lands, tenements, or mining claims to the extent and according to the purport of his or her proper title or pre-emption.

All persons holding under such possession by purchase,
130 devise, or descent before said five years shall have expired, and who shall continue such possession, and continue to pay the taxes as aforesaid, so as to complete the possession of and payment of taxes for the term aforesaid, shall be entitled to the benefit of this section."

Approved February 13th, 1874.

No other section in this act modifies or changes the intent or meaning or effect of the above section.

FRED. C. MORSE,
Attorney for the Applicant.

(Endorsed:) Law of limitations; case of the Starr Placer Claim, survey No. 250, dist. No. 3, in Lake county, Colorado; claimed by Thomas Starr; filed in the United States land office at Fairplay, Colorado, on the 18th day of June, 1878; Jno. J. Henry, register.

Proof that no Known Veins Exist.

Jason B. Hall and James D. Denning, each for himself, being first duly sworn, on oath deposes and says that he is a citizen of the United States over the age of twenty-one years, and that he is well acquainted with the property known as the Starr Placer Claim, situate in California mining district, in Lake county, Colorado, owned and worked by Thomas Starr; that for many years this affiant has resided near to and often been upon and across over upon the said mining

premises, and that no known vein or veins of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, or copper exist on said mining claim, or on any part thereof, and he verily believes that none exist thereon; and further, that he has no interest whatever in the said Starr Placer Claim.

JASON B. HALL.
JAMES D. DENNING.

131 Subscribed and sworn to by Jason B. Hall and James D. Denning, before me, in my office, in the town of Leadville, in the county of Lake, and the State of Colorado, on this 15th day of March, A. D. 1878.

{ Chas. E. Anderson, Notary Public, Lake Co., Colorado. }

C. E. ANDERSON,
Notary Public, Lake Co., Colo.

(Endorsed:) Proof that no known veins exist; case of the Starr Placer Claim, sur. No. 255, dist. No. 3, Lake county, Colorado; applicant, Thomas Starr; filed in the United States Land Office at Fairplay, Colorado, on the 18th day of March, 1878; Jno. J. Henry, register.

Proof that no suit exists.

I, Joseph H. Wells, clerk of the District Court of the fourth judicial district of the State of Colorado in and for the county of Lake, do hereby affirm or swear that there is no suit or action, or litigation of any character whatever, pending in said court, involving the right of possession or ownership, or affecting the title to the whole or any portion of the mining property known as the Starr Placer Claim, which is designated by the Surveyor General of Colorado as survey No. 255, in district No. 3, situated in California Mining District, in Lake county and State of Colorado; and that there has been and was no litigation before said court affecting the title to said
132 claim or any part thereof during the five years next preceding the eighteenth day of March, 1878, being the space of time fixed by the statute of limitations for mining claims in the State of Colorado, other than that which has been finally decided in favor of Thomas Starr, and there has been no litigation before said court affecting the title to said claim or any part thereof since the date last above named, other than that which has been finally decided in favor of Thomas Starr.

In witness whereof, I hereunto subscribe my name and affix the seal of said court, in my office, in the town of Granite, in the county of Lake and State of Colorado, on this 29th day of May, A. D. 1878.

{ District Court 4th Judicial [SEAL] District, Lake county, Colorado. }

JOSEPH H. WELLS,
Clerk.

(Endorsed:) Proof that no suit exists; case of the Starr Placer

74° 15′ W. 97 ft.; thence N. 80° 10′ W. 180 ft.; thence S. 50° W. 166.50 ft.; thence N. 70° 08′ W. 249.50 ft.; thence S. 72° 54′ W. 28.50 ft.; thence S. 57° W. 126 ft.; thence S. 44° W. 69 ft.; thence S. 65° 10′ W. 75 ft.; thence S. 89° 52′ W. 81 ft.; thence S. 62° 50′ W. 70 ft.; thence S. 35° 24′ W. 54.50 ft.; thence S. 56° 20′ W. 104 ft.; thence S. 39° W. 192 ft.; thence S. 27° 36′ W. 292.50 ft.; thence S. 20° 40′ W. 157.40 ft.; thence S. 10° 22′ W. 245 ft.; thence S. 7° 15′ W. 445.60 ft.; thence S. 15° 15′ W. 256.50 ft.; thence S. 8° 26′ W. 303 ft.; thence S. 3° 06′ W. 375 ft.; thence S. 7° 40′ E. 70.50 ft.; thence S. 4° 10′ W. 297 ft.; thence S. 1° 10′ E. 157 ft.; thence S. 15° 20′ E. 222.50 ft.; thence S. 30° 10′ E. 347.50 ft.; thence S. 13° E. 150 ft.; thence S. 13° 10′ E. 580 ft.; thence S. 1° 10′ E. 600 ft.; thence S. 29° 40′ E. 330.50 ft.; thence S. 88° 05′ W. 1428.50 ft., to cor. No. 1. Containing 164.61 acres, exclusive of .39 of an
137 acre of sur. No. 158; said location being recorded in vol. 10, pages 122 and 254 of the records of Lake county. Adjoining claimants: A. B. Woods *et als.*, now Stevens and Leiter, on the northwest; Oro M'n'g Ditch & Fluming Co.'s claim, survey 258, on the south.

THOMAS STARR.

[Register Print, Central City.]

139 *Proof of Sums Paid.*

STATE OF COLORADO, } *ss:*
County of Lake, }

Thomas Starr, having been first duly sworn according to law, deposes and says that he is a citizen of the United States over the age of twenty-one years; that he is the applicant for patent to 164 $\frac{61}{100}$ acres of placer land, sur. No. 255, dist. No. 3, in California Mining District, in Lake county, Colorado; that in the prosecution of such application he has paid the following sums of money, viz.:

To receiver of the local land office for land, 164 $\frac{61}{100}$ acres at $2.50 per acre..... $412 50

$412 50

THOMAS STARR.

Subscribed and sworn to before me this 8th day of March, 1877.

D. HOUGHTON,
[SEAL.] *Notary Public.*

(Endorsed:) Proof of sums paid; case of Thomas Starr Placer Claim, sur. No. 255, dist. No. 3, Lake county, Colorado; applicant, Thomas Starr; U. S. land office, Fairplay, Colorado; filed and approved this 12th day of March, 1879; ——— ———, register; Wm. K. Burchinell, receiver.

140 STATE OF COLORADO, } ss:
Lake County, }

I, Thomas Starr, do solemnly declare on oath to Jos. H. Wells, clerk of the District Court of the 4th judicial district of Colorado, in and for the county of Lake, that it is *bona fide* my intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince, potentate, State, or sovereignty whatever, and particularly to the Queen of Great Britain, whereof I was heretofore a citizen or subject.

THOMAS STARR.

Subscribed and sworn to before me this 3d day of July, 1878.

JOS. H. WELLS,
[SEAL.] *Clerk.*

STATE OF COLORADO, } ss:
Lake County, }

I, Jos. H. Wells, clerk of the District Court of the 4th judicial district of Colorado within and for the county of Lake, do hereby certify that the above is a true copy of the declaration of Thomas Starr, an alien, duly made before me and filed in my office on the 3d day of July, A. D. 1878.

Given under my hand and the seal of said court this 3d day of July, A. D. 1878.

JOS. H. WELLS,
[SEAL.] *Clerk.*

(Endorsed:) Proof of Citizenship; case of the Thomas Starr Placer Claim, sur. No. 255, dist. No. 3, Lake county, Colorado; applicant, Thomas Starr; filed in the United States Land Office at Fairplay, Colorado, on the 10th day of July, 1878; Wm. K. Burchinell, receiver.

141 STATE OF COLORADO, } ss:
Lake County, }

Wm. H. Stevens, of lawful age, being first duly sworn, deposes and says that he is a citizen of the United States over the age of 21 years, and a resident of Detroit, in the State of Michigan.

That since the year 1873 he has been well acquainted with California Mining District, in the county of Lake, in the State of Colorado, and particularly with the Starr Placer Claim, so called, being mining application No. 177, and also the Stevens and Leiter Placer Claim, so called, being application No. 178.

And this affiant further says, upon oath as aforesaid, that in the year 1873 he and one Alvinus B. Wood, who is a citizen of the United States and a resident of Ann Arbor, in the State of Michigan, explored and prospect... in and upon said placer claims, as well as upon other and extensive tracts of country in said California Mining

District, for the purpose of ascertaining whether said placer claims, and also other placer claims in the vicinity, contained a sufficient amount of gold to justify the expenditure of large sums of money that would be required to purchase from the claimants of the placer mining claims said claims, and to construct a ditch from near the head of the Arkansas River, a distance of about eleven miles, for the purpose of conveying water to said claims, and also the expense of constructing a bed-rock flume to and into said claims for the purpose of working the same to the best advantage.

142 And this affiant further says, on oath as aforesaid, that he and the said Wood continued their explorations and prospecting, when they had the opportunity for so doing, until some time in the year 1874, when, having become satisfied from the extensive and thorough investigations made by them as aforesaid, they purchased from the claimants and possessors of said claims a large number of mining claims and a large quantity of placer mining ground, intending thereby to obtain a sufficient interest in the placer mines of said California Mining District to justify the large expenditure of money attendant thereon, and that in making the purchases of mining claims they expended large sums of money, in the aggregate amounting to fifty thousand dollars, and that a part of the mining claims and placer ground so purchased is included in the Starr Placer Claim, so called, and another part of said mining claims so purchased is included in the Stevens and Leiter Placer Claim, so called.

And this affiant further says, on oath as aforesaid, that at the time of the making of said purchases of said mining claims and the expenditure of said sums of money, that the part of said California Mining District in which said claims are situated was almost entirely deserted, so that not more than fifteen miners resided or worked in the immediate vicinity of said claims, and that not more than fifteen houses remained upon or within one mile of said claims, and that said purchases were made in good faith by the affiant, and said Wood believing that said claim*ed* sufficient gold to justify the large expenditure of money necessary for the purchase and working of the same, and that said claims and mining ground were then and have ever since that time been properly classified as placer mineral

143 lands, and were then and are now and of right ought to be subject to be purchased from the United States under the laws thereof relating to the sale of placer mineral lands.

And the affiant further says that, in consequence of the imperfection of the records of many of said mining claims, it was deemed advisable to relocate many of said mining claims, which was done accordingly for the sole use and benefit of the affiant and said Wood and their assignees, and that thereafter a portion of said mineral claims was transferred to the said Thomas Starr, (and) now constitutes a part of the so-called Starr Placer Claim, embraced in application No. 177 as aforesaid, and that the said A. B. Wood sold and transferred, for a valuable consideration, a portion of his interest in said claims to one Levi Z. Leiter, a citizen of the

United States, and a resident of Chicago, in the State of Illinois, and thereby this affiant and the said Leiter became possessed, and were and still are the owners of the said Stevens and Leiter Placer Mine and Mining Claim, being embraced in mining application No. 178.

And this affiant further says that he and the said A. B. Wood, and their associates, organized a mining company, in the year 1875, under the name of the Oro Mining, Ditching, and Fluming Company, for the purpose of securing water to use in the mines and mining claims aforesaid, and for working the same and securing the gold therefrom.

And the affiant further says that in the year 1875 the said mining company, at a great expense in time, labor, and money, constructed a ditch from near the head of the Arkansas River to and upon
144 said mines and placer claims, and completed the same in the fall of 1875 and spring of 1876, so that about 5,000 inches of water could be and was carried therein for a distance of about eleven miles and at a cost of about forty thousand dollars.

And this affiant further says, on oath as aforesaid, that the said Oro Mining, etc., Company, in the year 1876, constructed a bed-rock flume from below the ground taken up by the said affiant and A. B. Wood as aforesaid, in and upon a part of said claim, and completed the same to the bed-rock, and thereupon commenced to work and mine, and that during the mining season since such completion and up to the date hereof have continued to work and mine in and upon said claims, and extract the gold therefrom; and that said Oro, &c., Company have removed and excavated fifty thousand yards of earth in performing said work, and have expended about sixty-six thousand dollars upon the same, and that said company have taken out of said mining claim in gold the sum of about eight thousand dollars.

And this affiant further says that the said bed-rock flume has been run and is still being run towards the placer mining claim of the said Starr herein described, and the placer mining claim of the said Stevens and Leiter as aforesaid, for the purpose and with the design of assisting in working the same and the development thereof.

And this affiant further says, upon oath as aforesaid, that at the time of the purchase of the said placer claims that no one in the vicinity of the same supposed or thought that there would be a town built or required in the vicinity of said placer claims, and that said claims were not taken up or purchased for the purpose of speculation,
145 but were so taken up and purchased in good faith for mining purposes.

W. H. STEVENS.

Subscribed and sworn to before me this 29th day of June, A. D. 1878; and I hereby certify that the above-named affiant is a credible person, and that his statements herein are entitled to full faith and credence.

[SEAL.]

A. S. WESTON,
Notary Public.

(Endorsed:) Affidavit of W. H. Stevens; case of the Starr Placer Claim, sur. No. 255, dist. No. 3, Lake county, Colorado; applicant, Thomas Starr; filed in the United States land office at Fairplay, Colorado, on the 6th day of July; Wm. K. Burchinell, receiver.

Receiver's Receipt.

[Duplicate to be given the purchaser.]

Mineral entry No. 182, lot No. 255, district No. 3, upon unsurveyed land.

U. S. LAND OFFICE,
AT FAIRPLAY, COL.,
March 6th, 1879.

Received from Thomas Starr, whose post-office is Leadville, Lake county, Colorado, the sum of four hundred and twelve and $\frac{50}{100}$ dollars, the same being in full for the surface area embraced by survey No. 255, in the district No. 3; said mineral claim or lot of land being situate in California Mining District, county of Lake and State of Colorado, and known as the Starr Placer claim, embracing $164\frac{61}{100}$ acres, as shown by said survey.

$412.50.

WM. K. BURCHINELL,
Receiver.

146 (Endorsed:) Receiver's receipt; case of the Starr Placer Claim; lot No. 255, in district No. 3, in California Mining District, in Lake county, Colorado, claimed by Thomas Starr; filed in the United States land office at Fairplay, Colorado, on the 6th day of March, 1879; Jno. J. Henry, register.

Proof of Plat and Notice Remaining Posted 60 Days.

Thomas Starr, being first duly sworn according to law, deposes and says that he is a citizen of the United States over the age of twenty-one years, and that on the 15th day of March, 1878, a plat representing the Starr Placer Claim, situate in California mining district, in Lake county and State of Colorado, together with notice by said Thomas Starr of his intention to apply for a patent therefor, was posted in a conspicuous place in said mining claim, to wit, upon the east end *at* A. R. Meyer's office, situated on the claim, where it could be easily seen and examined, and that said plat and notice remained so posted upon the east end of A. R. Meyer's office, situated on the claim, continuously from the said date of posting until the 30th day of May, 1878, and this affiant is the applicant for patent for said Starr Placer Claim.

THOMAS STARR.

147 Subscribed and sworn to before me this fifth day of June, A. D. 1878; and I hereby certify that I consider the above deponent a credible and reliable witness, and that the foregoing affidavit was read and examined by him before his signature was affixed thereto and the oath made by him.

D. HOUGHTON,
Notary Public.

[SEAL.]

(Endorsed:) Proof of Plat and Notice Remaining Posted 60 days; case of the Starr Placer Claim, survey No. 255, dist. No. 3, in Lake county, Colorado, claimed by Thomas Starr; U. S. Land Office, Fairplay, Colorado; filed and approved this 18th day of June, 1878; Jno. J. Henry, register.

Corroborative Proof of Possessory Right.

Hiram C. Vaughn and Daniel Houghton, each being first duly sworn on oath, deposes and says that he is a citizen of the United States over the age of twenty-one years; that he has resided in Lake county, Colorado, since the 17th day of June, 1860; that during all the time since said date he has been acquainted with the mining ground now known as the Starr Placer Claim, situate in California mining district, in the aforesaid county and State, and during the same time has been acquainted with the possessors and
148 workers of said placer claim; that the ground now embraced in said Starr Placer Claim was located and has been possessed and worked in accordance with the customs and usages of miners in said district, and in conformity with the law and regulations governing the location, holding, and working of mining claims in force and observed in the State of Colorado; that the possession of Thomas Starr and his predecessors in interest of, in, and to the ground included in the said Starr Placer Claim has been actual, notorious, and continuous, to the positive knowledge of deponent, since the date above named, and that such possession has been perfected and maintained in conformity with mining usages and customs, and has been acquiesced in and respected by the miners of the aforesaid district; that the said Thomas Starr's right to the said Starr Placer Claim is not in litigation within the knowledge of this affiant; that the said Thomas Starr and his predecessors in interest have expended in the improvement, development, and working of said claim a sum of money exceeding twenty thousand dollars in actual placer mining work.

HIRAM C. VAUGHN.
DANIEL HOUGHTON.

Subscribed and sworn to by Hiram C. Vaughn and Daniel Houghton, before me, in my office, in the town of Leadville, in the county of Lake, in the Fairplay land district, in the State of Colorado, on this 15th day of March, A. D. 1878.

C. E. ANDERSON,
[SEAL.] *Notary Public, Lake Co., Colo.*

149 (Endorsed:) Corroborative Proof of Possessory Right; case of the Starr Placer Claim, sur. No. 255, dist. No. 3, Lake county, Colorado; applicant, Thomas Starr; filed in the United States land office at Fairplay, Colorado, on the 18th day of March, 1878; John J. Henry, register.

Proof of Citizenship.

STATE OF COLORADO, }
County of Lake, } *ss:*

Thomas Starr, being duly sworn, deposes and says that he is a citizen of the United States over the age of twenty-one years; that he was born in the county of Tyron, in Ireland, but landed in America at the age of sixteen years; and that affiant is an applicant for patent for 164.61 acres of the Starr Placer Claim, situated in California mining district, county of Lake and State of Colorado, under the provision of the mining laws.

THOMAS STARR.

Subscribed and sworn to before me this 15th day of March, 1878.

C. E. ANDERSON,
[SEAL.] *Notary Public, Lake Co., Col'o.*

(Endorsed:) Proof of citizenship; case of the Starr Placer Claim, sur. No. 255, dist. No. 3, Lake county, Colorado; applicant, Thomas Starr; U. S. Land Office, Fairplay, Colorado; filed and apdroved this 18th day of March, 1878; Jno. J. Henry, register.

150 *Register's final Certificate of Entry.*

U. S. LAND OFFICE, AT FAIRPLAY,
COLORADO, *March 6th*, 1879.

Mineral entry No. 182, lot No. 255, }
dist. No. 3, upon unsurveyed land. }

It is hereby certified that in pursuance of the mining act of Congress approved July 26, 1866, and the act amendatory thereof approved July 9, 1870, and May 10, 1872, and all the mining laws, Thomas Starr, whose post-office address is Leadville, Lake county, Colorado, has on this day purchased that mineral claim or lot of land designated as survey No. 255, in the district No. 3, situate, lying, and being in the California mining district, in the county of Lake and State of Colorado, known as the Starr Placer Claim, embracing $164\frac{61}{100}$ acres, as shown by said survey, for which the said Thomas Starr has this day made payment to the receiver in full, amounting to the sum of four hundred and twelve $\frac{50}{100}$ dollars.

Now, therefore, be it known that upon the presentation of the certificate to the Commissioner of the General Land Office, together with the plat, survey, and description of said claim, a patent shall issue thereupon to the said Thomas Starr, if all be found regular.

JNO. J. HENRY,
Register.

(Endorsed:) Register's final certificate of entry; case of the Starr Placer Claim, being lot No. 255, dist. No. 3, in California mining district, in Lake county, Colorado, claimed by Thomas Starr; filed

in the United States Land Office at Fairplay, Colorado, on the 6th day of March, 1879; Jno. J. Henry, register.

151 *Abstract of Title to the Placer Claim of Thomas Starr,*

situated in California mining district, in the county of Lake and State of Colorado.

A. B. Wood *et al.* to claim No. 1 P., placer mines.

{Book 9, Page 59.} Be it known that A. B. Wood, John B. Crawford, R. J. Wood, and Joseph W. Wood, four citizens of the United States, locate, claim, and record eighty acres of placer land situated to the north of California Gulch, and more fully described as follows, to wit:

From U. S. locating monument No. 1, established by J. S. Titcomb, U. S. min. surveyor, N. 89° 45′ W., variation 15° E., 418 feet, to corner No. 1, beginning, being a post in mound of stones, from which Mt. Sheridan bears S. 68° E., Mt. Elbert S. 42° 45′ W., and a sharp peak on N. part of Grand Mt. S. 72° W., being also corner No. 1 of claims in California Gulch now held by the Oro M'g, Ditch, and Fluming Co.; thence N. 58° 05′ E. 2,453 ft. to post in mound of stones, corner No. 2, 8 ft. W. of Starr's mining ditch, from which a pine 10 in. diam. bears N. 0° 20′ W. 15 ft., a pine 14 in. dia. bears N. 36° 35′ W. 45 ft.; thence N. 9° 05′ W. 660 ft. to post in mound of stones, corner No. 3, 12 ft. W. of aforesaid ditch, from whence a pine 12 in. dia. bears N. 71° 10′ E. 7½ ft., a pine 11 in. dia. bears N. 20° 30′ W. 9 ft.; thence N. 27° 35′ E. 355 ft. to post in mound of stones, corner No. 4, 8 ft. from the aforesaid ditch, from whence a pine 7 in. dia. bears N. 26° 20′ E. 4 ft., a pine 10 in. diam. bears S. 1° 20′ E. 7 ft.; thence N. 29° 40′ W. 365 ft. to post in mound of stones, corner No. 5; thence S. 88° 05′ W. 2,832 5/10 feet to post in mound of stones, corner No. 6; thence S. 17° 50′ E. 1,338 1/10
152 ft. to corner No. 1, place of beginning, containing eighty acres, situated in Lake county, Colorado Territory. Sept. 21st, 1874.

Recorded September 22d, A. D. 1874, at 2 o'cl'k P. M.

Placer Claim of C. W. Floyd et al.

{Book 9, Page 466.} C. W. Floyd, Susan Floyd, and Thomas Graham claims 1,500 feet, commencing at a stake near the old blacksmith shop and running 1,500 feet along Starr's north line, thence 500 feet north, thence 1,500 easterly, thence 500 feet to the place of beginning.

ORO CITY, *Agt.* 1*st*, 1868. S. D. BREECE,
Recorder California Mining District.

I hereby certify that the above is a true copy of the record made by C. W. Floyd, Susan Floyd, and Thomas Graham.

ORO CITY, *April* 7, '77. S. D. BREECE, *Recorder.*

Recorded April 13th, A. D. 1877, at 4 P. M.

Quit-claim Deed dated October 16th, 1869.

{Book 6, Page 54.} This deed transfers all the right, title, and interest of C. W. Floyd in and to mining claim Nos. 2, 3, 4, 5, 6, in California Gulch, (Old Sac. Dist.,) to Julius Shultz, for the sum of $50.00.

153 Recorded April 13th, 1877, at 4 P. M.

Quit-claim Deed dated Oct. 4th, 1869.

{Book C, Page 54.} This deed transfers all the right, title, and interest of C. W. Floyd in and to certain mining claims, described as follows: Commencing at stake near the head of my works; thence running up the gulch to a blazed tree; thence on a straight line from the above stake and tree to Starr's flume; thence in a southerly direction down the said Starr flume to the side ditch; thence down the said side ditch to a block of ground not worked; thence to the place of beginning in California district: to Julius Shultz, for the sum of $600.00.

Date of acknowledgement, October 4th, 1869. Recorded April 13th, 1877.

Quit-claim Deed dated April 7th, 1877.

{Book C, Page 55.} This deed transfers all the right, title, and interest of Thomas Graham in and to the one-third interest of the ground pre-empted by C. W. Floyd, Susan Floyd, and himself, Oct. 1st, 1868, in California Gulch, to Julius Shultz, for the sum of $50.00.

Recorded April 13th, 1877, at 4 P. M.

Julius Shultz to Relocation Placer Claim.

STATE OF COLORADO, *County of Lake,* } *ss:*

{Book 9, Page 466.} Know all men by these presents: That I, Julius Shultz, having complied with all the laws of the United States and with the local customs, laws, and regulations, have,

154 this 13th day of April, A. D. 1877, claimed, by right of relocation, as a placer claim, the following described premises, situate in California Mining District, to wit:

Commencing at a stake near what used to be an old blacksmith shop, below what is called the old town of Oro City; thence 1,500 feet westerly, along the north line of Thomas Starr's claims, to stake; thence 500 feet north to stake; thence 1,500 feet easterly to stake; thence 500 feet south to the place of beginning; situate in the county of Lake and State of Colorado.

JULIUS SHULTZ.

Recorded April 13th, A. D. 1877, at 4 P. M.

Aug. R. Meyer et al. to Certificate Placer Claim.

STATE OF COLORADO, } ss:
County of Lake, }

{ Book 9, Page 471. } Know all men by these presents: That we, the undersigned, claim by right of location and pre-emption under the laws of the United States, and according to the local customs and regulations, the following described placer claim, more particularly described as follows, to wit:

Commencing at a point about 300 feet north of the house now used by Aug. R. Meyer as an ore house, near the old town of Oro City, at a stake; thence running north 800 feet to stake; thence 1,000 feet east to stake; thence 800 feet south to stake; thence 1,000 feet west to stake, the place of beginning, situate in the county
155 of Lake and State of Colorado, in California Mining District.

Located April 21st, A. D. 1877.

AUG. R. MEYER.
ALBERT HOTZ.
GEORGE L. HENDERSON.
DAVID COPELAND.

Recorded April 21st, A. D. 1877, at 6 P. M.

George L. Henderson to Certificate Placer Claim.

STATE OF COLORADO, } ss:
County of Lake, }

{ Book 9, Page 478. } Know all men by these presents: That I, G. L. Henderson, claim by right of location and pre-emption under the laws of the United States, and according to the local customs and regulations, the following described placer claim, to wit:

Commencing at a stake marked No. 1, about 300 feet north of the house now used by Aug. R. Meyer as an ore house, near the old town of Oro City; thence running north 500 feet to a stake marked No. 2; thence west 500 feet to a stake marked No. 3; thence 500 ft. south to a stake marked No. 4; thence east 500 feet to the place of beginning, situated in the county of Lake and State of Colorado and California Mining District.

Located May 3d, A. D. 1877.

GEO. L. HENDERSON.

Recorded May 4th, A. D. 1877, at 2 P. M.

Julius Shultz to Re-location Certificate Placer Claim.

156 STATE OF COLORADO, } ss:
County of Lake, }

{Book 10, Page 17.} Know all men by these presents: That I, the undersigned, have this 19th day of May, A. D. 1877, relocated the following described placer claim by right of pre-emption and purchase under the laws of Congress approved May 10th, 1872, being situated in California Mining District, said county and State, said claim being known as the Floyd *et al.* Claims, and more particularly marked and described as follows, to wit:

Beginning a corner No. 1, a pine post which bears from south side of an old anvil block, where the old blacksmith shop stood below the old town of Oro City, in California Gulch, S. 73° 40′ W. 500 feet; thence S. 73° 40′ W. 1,000 feet to cor. No. 2, a pine post; thence N. 16° 20′ W. 500 feet to cor. No. 3, a pine post; thence N. 73° 40′ E. 1,000 feet to cor. No. 4, a pine post; thence S. 16° 20′ E. 500 feet to the place of beginning, the former record of which is found in Book 9, page 466, in the office of the clerk and recorder of said county and State.

JULIUS SHULTZ.

Recorded May 21st, A. D. 1877, at 7 A. M.

Aug. R. Meyer et al. to Certificate Placer Claim.

STATE OF COLORADO, } ss:
County of Lake, }

{Book 10, Page 18.} Know all men by these presents: That we, the undersigned, claim by right of location and pre-emption under the laws of Congress approved May 10th, 1872, as a placer claim situated in California Mining District, in the county of Lake, State of Colorado, the following described, viz.: Beginning at a post
157 on the south line of A. B. Wood's *et al* Placer Claim; thence S. 16° 20′ E., va. 15° E., 136 feet to a post; thence S. 3° E. 615.5 feet to a post which bears from a post on S. side of an old anvil block where the old blacksmith shop stood below the old town of Oro City, S. 65° 57′ E. 500 feet; thence S. 65° 57′ E. 400 feet to a post; thence S. 28° 30′ E. 150 feet to a post; thence N. 49° 30′ E. 600 feet to a post; thence northwesterly to the place of beginning, and containing $19\frac{95}{100}$ acres of placer mining ground.

Dated May 19th, A. D. 1877.

AUG. R. MEYER.
S. D. BREECE.
GEO. HENDERSON.
W. H. BRADT.

Recorded May 22nd, A. D. 1877, at 7 A. M.

Aug. R. Meyer et al. to Certificate Placer Claim.

STATE OF COLORADO, } ss:
County of Lake, }

{Book 10, Page 18.} Know all men by these presents: That we, the undersigned, claim by right of location and pre-emption under the act of Congress approved May 10th, 1872, as a placer claim situated in California Mining District, county of Lake and State of Colorado, and described as follows: Beginning at cor. No. 1 post in mound of stones which bears from locating monument No. 1, established by J. S. Titcomb, U. S. dep. min. surveyor, N. 89° 45′ W., va. 15° E., 418 feet; thence S. 17° 15′ E. 500 feet to a post; thence easterly along the north line of A. J. Hill's and the Floyd
158 claim 1368 feet to a post; thence N. 16° 20′ W. 134 feet to a post; thence S 88° 5′ W. 1429 feet to the place of beginning, containing 10 acres of placer mining ground.

Dated May 19th, A. D. 1877.

AUG. R. MEYER.
S. D. BREECE.
GEO. HENDERSON.
W. H. BRADT.

Recorded May 22nd, A. D. 1877, at 7 A. M.

STATE OF COLORADO, } ss:
County of Lake, }

Know all men by these presents: That we, the undersigned, did on the nineteenth day of June, 1877, claim by right of location twenty-seven and sixty-one hundredths of an acre of placer mining ground, in accordance with act of Congress approved May 10th, 1872, said placer claim being situated in California Mining District, the
{Book 10, Page 39.} location and bounds of said claim being marked and described more particularly as follows, to wit:

Beginning at cor. No. 1, being N. W. cor. of Breece, Henderson & Co.'s placer claim, on N. line of A. B. Wood's claim; thence S. 49° 5′ E., va. 15° E., 1000 feet to cor. No. 2; thence N. 26° 24′ E. 488.5 feet to cor. No. 3, a pine post in mound of stone; thence N. 64° W. 200 feet to cor. No. 4, a post in mound of stone; thence N. 26° E. 920.1 feet to cor. No. 5, a post in mound of stone; thence N. 75° 18′ W. 1077 feet to cor. No. 6, being cor. No. 4, A. B. Wood's claim, and on the south side of the Starr ditch; thence S. 27° 40′ W. 355 ft. to cor. No. 7 and cor. No. 3 of A. B. Wood's claim; thence S. 6° 50′ E. 658 feet to cor. No. 8 and cor. No. 2 of A. B. Wood's claim; thence S. 88° 5′ W. 675.5 feet the place of
159 beginning, containing $27\frac{61}{100}$ acres.

S. D. BREECE.
AUG. R. MEYER.
W. H. BRADT.
GEO. L. HENDERSON.

Recorded June 20, 1877, at 4 P. M.

A. J. Hill to Certificate Placer Claim.

STATE OF COLORADO, } ss:
County of Lake, }

{Book 10. / Page 107.} Know all men by these presents: That I, A. J. Hill, of the county of Lake, of the State of Colorado, having complied with the provisions of chapter six, title XXXII, of the Revised Statutes of the United States, and with the local laws, rules, and regulations, claim, by right of discovery and relocation, as placer claim, the following described premises, situate in California Mining District, county and State aforesaid, to wit:

Beginning at cor. No. 1, which bears from cor. No. 1 Oro Fluming and Mining Co.'s claim S. 17° 50′ E., va. 15° E., 480 feet, which bears from U. S. locating monument No. 1 N. 89° 45′ W. 418 feet; thence S. 17° 50′ E., va. 15° E., 519.5 feet and cor. No. 2, at the old Jeffries Chimney; thence N. 70° 15′ E. 464 feet and cor. No. 3, a post in mound of stones; thence N. 17° 47′ W. 490.38 feet to cor. No. 4, a post in mound of stones; thence S. 74° 28′ W. 464 feet to the place of beginning; containing $4\frac{87}{100}$ acres. Relocated August 8th, 1877. Date of certificate, August 15th, A. D. 1877.

A. J. HILL.

Recorded August 15th, A. D. 1877, at 3 P. M.

160 *Quit-claim Deed dated May 31st, 1877.*

{Book C, / Page 97.} This deed transfers all the right, title, and interest of Thomas Starr in and to certain placer ground, commencing at cor. No. 1, which bears from cor. No. 3 of claim of A. R. Meyer, designated by a stump used as an anvil-block in an old blacksmith shop near the old town of Oro City, N. 16° 20′ W. 200 feet; thence 503.4 feet N. 67° 57′ E. to cor. No. 2; thence 136 ft. N. 16° 20′ W. to cor. No. 3; thence 539.5 feet S. 85° 30′ W. to cor. No. 4; thence 300 ft. S. 16° 20′ E. to cor. No. 1, the place of beginning, situate in the California Mining District, to Aug. R. Meyer for the sum of fifty dollars.

Date of acknowledgement, July 5th, 1877.

Recorded July 13th, A. D. 1877, at 6 P. M.

Quit-claim Deed dated April 18th, 1878.

{Book C, / Page 98.} This deed transfers all the right, title, and interest of Julius Shultz in and to certain placer ground, to wit: Commencing at a stake near what used to be the old blacksmith shop, below what is called the old town of Oro City; thence 500 feet westerly, along the north line of Thomas Starr's claim, to stake; thence 500 feet north to stake; thence five hundred feet easterly to stake; thence 500 ft. south to the place of beginning, situate in California Mining District, to Aug. R. Meyer, for the sum of sixty dollars.

Date of acknowledgement, May 30th, 1877.

Recorded July 13th, A. D. 1878, at 6 P. M.

161 *Quit-claim Deed dated July 17th, 1877.*

{ Book 6, Page 106. } This deed transfers all the right, title, and interest of Alvinus B. Wood and William H. Stevens in and to certain placer ground, to wit:

Beginning at corner No. 1, which bears from U. S. locating monument established by J. S. Titcomb, U. S. dep. min. surveyor, designated as locating monument No. 1; said corner No. 1 bears from said monument S. 50° 38′ E., variation 15° E., 1070 feet; thence S. 16° 20′ E. 666 feet to cor. No. 2; thence N. 85° 5′ E. 1029 ft. to corner No. 3; thence N. 16° 20′ W. 1000 feet to the place of beginning, situate in California Mining District, to Aug. R. Meyer, for the sum of fifty dollars.

Date of acknowledgement, July 20th, 1877.

Recorded July 25th, A. D. 1877, at 4 P. M.

Quit-claim Deed dated June 26th, 1877.

{ Book C, Page 134. } This deed transfers all the right, title, and interest of R. J. Wood, Jas. W. Wood, J. B. Crawford, in and to certain placer claims situated in California Gulch, known as Placer Claims No. 1 P, No. 2 P, No. 3 P, and No. 4 P, near the old town of Oro City, to A. B. Wood, for the sum of fifty dollars.

Date of acknowledgement, June 26th, 1877.

Recorded August 21st, A. D. 1877, at 10 A. M.

162 *Julius Shultz to Certificate Placer Claim.*

STATE OF COLORADO, } *ss:*
County of Lake, }

{ Book 10, Page 108. } Know all men by these presents: That I, Julius Shultz, of the county of Lake, State of Colorado, having complied with the provisions of chapter six, title XXXII, of the Revised Statutes of the United States, and with the local laws and regulations, claim, by right of discovery and location, as a placer claim, the following described premises, situate in California Mining District, county and State aforesaid, to wit:

Beginning at cor. No. 3 of A. J. Hill's claim, relocated Aug. 8th, 1877; thence N. 70° 52′ E., va. 15° E., 895.2 feet to cor. No. 2; thence N. 16° 20′ W. 434 feet to cor. No. 3; thence S. 74° 28′ W. 907.4 feet to cor. No. 4; thence S. 17° 47′ E. 480.38 feet to the place of beginning, containing $10\frac{6}{10}$ acres of placer mining ground; said claim was located August 8th, A. D. 1877.

Date of certificate, Aug. 15th, 1877.

JULIUS SHULTZ.

Recorded August 15th, A. D. 1877, at 4 P. M.

JOS. H. WELLS, *Recorder.*

and State of Colorado, having complied with the provisions of chapter six, title XXXII, of the Revised Statutes of the United States, and with the local laws and regulations, claim by right of discovery and location and purchase, as a placer claim, the following described premises, situate in California Mining District, county and State aforesaid, to wit:

Beginning at cor. No. 1 at the old Jeffries Chimney in California Gulch; thence north 70 degrees 52 minutes east, va. 15 degrees east, 1357.2 feet to the cor. No. 2; thence north 16 degrees 20 minutes west 65 feet to cor. No. 3; thence north 88 degrees 15 minutes east 517 feet to cor. No. 4; thence north 16 degrees 20 minutes west 200 feet to cor. No. 5; thence north 70 degrees 30 minutes east 245.5 feet to cor. No. 6; thence north 78 degrees 45 minutes east 346 feet to cor. No. 7; thence south 25 degrees 20 minutes east 255 feet to cor. No. 8; thence south 33 degrees 30 minutes east 79 feet to cor. No. 9; thence south 44 degrees 45 minutes east 103 feet to cor. No. 10; thence south 58 degrees east 293 feet to cor. No. 11; thence south 40 degrees 50 minutes west 305 feet to cor. No. 12; thence north
166 62 degrees 30 minutes west 17 feet to cor. No. 13; thence south 38 degrees 18 minutes west 620 feet to cor. No. 14; thence north 62 degrees 50 minutes west 197 feet to cor. No. 15; thence north 63 degrees 30 minutes west 332 feet to cor. No. 16; thence north 77 degrees 42 minutes west 169.5 feet to cor. No. 17; thence north 82 degrees 15 minutes west 277.5 feet to cor. No. 18; thence north 89 degrees west 215 feet to cor. No. 19; thence south 84 degrees 30 minutes west 179 feet to cor. No. 20; thence south 68 degrees west 289.5 feet to cor. No. 21; thence south 63 degrees 30 minutes west 515 feet to cor. No. 22; thence north 17 degrees 50 minutes west 437 feet to the place of *containing* $36\frac{36}{100}$ acres of placer mining ground. Said claim was located August 9th, A. D. 1877.

Date of certificate, Aug. 23d, A. D. 1877.

THOMAS STARR.
JAMES McPHELEMY, JR.

Recorded Aug. 24th, A. D. 1877, at 4 P. M.

Quit-claim Deed dated August 27th, 1877.

{ Book C, Page 141. } This deed transfers all the right, title, and interest of Augustus R. Meyer in and to certain placer ground, being same claim the certificate of relocation of which is recorded in Book 10, page 121, of Lake county records, to Thomas Starr, for the sum of one dollar and other consideration.

Date of acknowledgement, Aug. 27, 1877.

Recorded August 28th, A. D. 1877, at 7 A. M.

167 *Aug. R. Meyer to Certificate Placer Claim.*

{ Book 10, Page 121. } Know all men by these presents: That I, the undersigned, claim by right of purchase and relocation thirty-one and sixty-one hundredths acres of placer mining ground, and

have this 24th day of August, A. D. 1877, relocated the following described premises, situated in California mining district, county of Lake and State of Colorado, to wit:

Beginning at cor. No. 1, a post cornered which bears from U. S. locating monument No. 1, established by J. S. Titcomb, U. S. dep. mineral surveyor, north 50 degrees 38 minutes east 1070 feet; thence south 16 degrees 20 minutes east 1231 feet to cor. No. 2; thence north 88 degrees 15 minutes east 517 feet to cor. No. 3; thence north 16 degrees 20 minutes west 200 feet to cor. No. 4; thence north 17 degrees 30 minutes east 245 feet to cor. No. 5; thence north 78 degrees 45 minutes east 241 feet to cor. No. 6; thence north 3 degrees west 59 feet to cor. No. 7; thence north 16 degrees 30 minutes west 137 feet to cor. No. 8; thence north 88 degrees 5 minutes east 67 feet to cor. No. 9; thence north 6 degrees 50 minutes west 659 feet to cor. No. 10; thence north 27 degrees 40 minutes east 354 feet to cor. No. 11; thence north 29 degrees 40 minutes west 28 feet to cor. No. 12; thence south 73 degrees 40 minutes west 1413 feet to the place of beginning; variation in all courses, 15 degrees east.

AUG. R. MEYER.

Recorded August 28th, A. D. 1877, at 7 P. M.

Agreement of Thomas Starr and Aug. R. Meyer dated Aug. 27, 1877.

{ Book C, } { Page 143. } This agreement, made by Thomas Starr and Aug. R. Meyer, is to the effect that whereas persons owning contiguous placer claims may combine such claims according to the laws of the United States, for the purpose of *at*taining a patent therefor from the United States, and the said Aug. R. Meyer has heretofore, by his quit-claim deed dated Aug. 27, 1877, conveyed to Thomas Starr certain placer ground: It is agreed that Thomas
168 Starr shall reconvey to the said Aug. R. Meyer the said premises, as fully specified in said deed, after a patent shall have been procured by said Starr.

Date of acknowledgement, Aug. 27, 1877.

Recorded Aug. 28th, A. D. 1877, at 7 P. M.

Quit-claim Deed dated Aug. 27, 1877.

This deed transfers all the right, title, and interest of S. D. Breece, Aug. R. Meyer, Geo. L. Henderson, W. H. Bradt, in and to certain placer ground, to wit:

{ Book C. } { Page 156. } Beginning at cor. No. 1, a post in mound of stones which bears from U. S. locating monument, established by J. S. Titcomb, U. S. deputy mineral surveyor, north 89 degrees 45 minutes west, va. 15 degrees east, 418 feet; thence north 88 degrees 5 minutes east 1428.5 feet to cor. No. 2; thence south 16 degrees 20 minutes east 142 feet to cor. No. 3; thence south 74 degrees 28 minutes 35 seconds east 298.3 feet to cor. No. 4; thence

south 38 degrees 18 minutes west 130 feet to the place of beginning, containing 99–100 acres in California mining district, to Thomas Starr, for the sum of one hundred dollars.

Date of acknowledgement, Aug. 27th, 1877.

Recorded Aug. 30, A. D. 1877, at 7 P. M.

Quit-claim Deed dated Aug. 23d, 1877.

{ Book C, Page 162. } This deed transfers all the right to the interest of A. J. Hill in and to certain placer ground, to wit, being same claim that was recorded in Book 10, page 107, August 15th, A. D. 1877, in Lake county records, to Thomas Starr, for the sum of $100.00.

Date of acknowledgement, Aug. 27, 1878.

Recorded Aug. 30th, A. D. 1878, at 7 P. M.

169 *Agreement of Thomas Starr and S. D. Breece, Aug. R. Meyer, G. L. Henderson, and W. H. Bradt dated Aug. 22, 1878.*

{ Book C, Page 164. } This agreement is to the effect that whereas persons owning contiguous placer claims may combine such claims, according to the laws of the United States, for the purpose of obtaining a patent therefor from the United States; and the said S. D. Breece et al. have heretofore, by their quit-claim deed dated August 27, 1877, conveyed to Thomas Starr certain placer ground: It is agreed that Thomas Starr shall reconvey to the said S. D. Breece, Aug. R. Meyer, G. L. Henderson, and W. H. Bradt the said premises, as fully specified and described in said deed, after a patent shall have been procured by said Starr.

Quit-claim Deed dated Aug. 20d, 1877.

{ Book C, Page 158. } This deed conveys all the right, title, and interest of Julius Shultz in and to certain placer ground, to wit:

Beginning at cor. No. 3 of A. J. Hill's claim in California Gulch, relocated Aug. 8th, 1877; thence north 70 degrees 52 minutes east (va. 15 degrees east) 895.2 feet to cor. No. 2; thence north 16 degrees 20 minutes west 434 feet to cor. No. 3; thence south 74 degrees 28 minutes west 907.4 feet to cor. No. 4; thence south 17 degrees 47 minutes east 490.38 feet to the place of beginning, $10\frac{6}{100}$
170 acres, in California Mining District, to Thomas Starr, for the sum of one hundred dollars.

Date of acknowledgement, August 27, 1877.

Recorded August 30, A. D. 1877, at 7 P. M.

Quit-claim Deed dated Aug. 23d, 1877.

{ Book C, Page 160. } This deed transfers all the right, title, and interest of Julius Shultz in and to certain placer ground, to wit:

Beginning at cor. No. 1, a post in mound of stones which bears from the southeast of Thomas Starr's claim in California Gulch, north 38 degrees 78 minutes east (va. 15 degrees east) 106.5 feet; thence north 50 degrees 30 minutes west 309.5 feet to cor. No. 2, a post in mound of stone; thence north 43 degrees 8 minutes east 140.5 to cor. No. 3, a post in mound of stones; thence south 48 degrees west 1371.4 feet to cor. No. 4; thence north 17 degrees 50 minutes west 480 feet to the place of beginning, in California Mining District, containing $10\frac{44}{100}$ acres, to Thomas Starr, for the sum of one dollar.

Date of acknowledgement, August 27, 1877.

Recorded August 30, A. D. 1877, at 7 P. M.

Quit-claim Deed dated August 27th, 1877.

This deed transfers all the right, title, and interest of S. D. Breece, Aug. R. Meyer, G. L. Henderson, and W. H. Bradt in and to certain placer ground, to wit:

{ Book C. } { Page 166. } Beginning at cor. No. 12 of the claim of Thomas Starr and James McPhelemy, Jr., of $36\frac{36}{100}$ acres in California Gulch, at the old town of Oro.

Thence south 42 degrees 55 minutes east (va. 15 degrees east) 950 feet W. cor. No. 2; thence south 28 degrees 30 minutes east 150 feet; thence north 49 degrees 30 minutes east 600 ft.; thence north 49 degrees 5 minutes west 1085 feet; thence north 26 degrees 24 minutes east 488.5 feet; thence north 64 degrees west 200 feet; thence north 26 degrees east 920 feet; thence north 75 degrees 18 minutes west 1077 feet; thence south 27 degrees 40 minutes west 354 feet; thence south 6 degrees 50 minutes east 659 feet; thence south 88 degrees 5 minutes west 67 feet; thence south 16 degrees 20 minutes east 137 feet; thence south 3 degrees east 59 feet; thence north 78 degrees 45 minutes east 105 feet; thence south 25 degrees 20 minutes east 253 feet; thence south 33 degrees 30 minutes east 79 feet; thence south 44 degrees 45 minutes east 103 feet; thence south 58 degrees east 293 feet; thence south 40 degrees 50 minutes west 305 feet to the place of beginning, in California Mining District, to Thomas Starr, for the sum of one hundred dollars.

171'

Date of acknowledgement, Aug. 27, 1877.

Recorded Aug. 30th, A. D. 1877, at 7 P. M.

Title Bond dated Aug. 23d, 1877.

{ Book C. } { Page 170. } This bond binds Thomas Starr in the sum of two hundred dollars unto George L. Henderson and John Leahy.

The condition of said bond is that Thomas Starr shall make a good and sufficient deed to said Henderson and Leahy for the following described placer ground:

Beginning at a point in mound of stones which bears from the northwest corner of Starr's Gulch claims south 60 degrees 40 minutes

east, va. 15 degrees east, 248.5 feet; thence north 72 degrees 27 minutes east 409 ft.; thence north 78 degrees 20 minutes east 673 feet; thence south 5 degrees east 100 feet; thence south 78 degrees 20 minutes west 673 feet; thence south 72 degrees 27 minutes west 409 feet; thence north 5 degrees west 100 feet to beginning, containing $2\frac{449}{1000}$ acres in California Mining District, upon the said Starr receiving a patent from the United States therefor. Then the above obligation to be void.

Date of acknowledgement, August 27, 1877.

Recorded Aug. 30th, A. D. 1877, at 7 P. M.

172 *Title Bond dated Aug. 27th, 1877.*

{ Book C, } This bond binds Thomas Starr in the sum of five
{ Page 170. } hundred dollars unto A. J. Hill.

The condition of said bond is that Thomas Starr shall make a good and sufficient deed to said Hill for the following described placer ground, to wit, being same ground the location whereof is recorded in Book 10, page 107, Lake county recorded, upon the said Starr receiving a patent from the United States therefor. Then the above obligation to be void.

Date of acknowledgement, Aug. 27th, 1877. Recorded Aug. 30th, A. D. 1877, at 7 P. M.

Title Bond dated Aug. 27th, 1877.

{ Book C, } This bond binds Thomas Starr in the sum of one
{ Page 173. } thousand dollars unto Julius Shultz. The condition of said bond is that the said Thomas Starr shall make a good and sufficient deed to said Julius Shultz for the following described placer ground conveyed by deed from said Shultz bearing date of August 23d, A. D. 1877, upon the said Starr's receiving a patent from the United States therefor. Then the above obligation to be void.

Date of acknowledgement, Aug. 27th, 1877. Recorded August 30th, A. D. 1877, at 7 P. M.

Title Bond dated Aug. 23d, 1877.

{ Book C, } This bond binds Thomas Starr in the sum of six
{ Page 174. } hundred dollars unto Geo. L. Henderson.

The condition of said bond is that the said Thomas Starr
173 shall make a good and sufficient deed to said Henderson for the following placer ground:

Beginning at cor. No. 1, which bears from cor. No. 3 of the Henderson and Leahy's claim in California Gulch, N. 34 degrees W., va. 5 degrees E., 185.5 feet south 100 feet to cor. No. —; thence W. 100 feet to cor. No. 3; thence north 100 feet to cor. 4; thence E. 100 feet to place of beginning, containing $\frac{23}{100}$ acres, upon the

said Starr receiving a patent from the United States therefor. Then this obligation to be void.

Date of acknowledgement, Aug. 27th, 1877. Recorded Aug. 30th, A. D. 1877, at 7 P. M.

Quit-claim Deed dated Aug. 27th, 1877.

{ Book C. / Page 125. } This deed transfers all the right, title, and interest of James McPhelemy, Jr., in and to the following described placer ground, to wit, an undivided one-half interest in a certain placer and ditch claim of 5 acres, and recorded in Book 10, page 116, Lake county records.

Also an undivided one-half interest in a certain placer gulch claim situated in California Gulch, and recorded in Book 10, page 117, Lake county records, to Thomas Starr, for the sum of one hundred dollars.

Date of acknowledgement, Aug. 27th, 1877.

Recorded Aug. 30th, A. D. 1877, at 7 P. M.

Quit-claim Deed dated Aug. 29th, A. D. 1877.

{ Book C. / Page 182. } This deed transfers all the right, title, and interest of Peter Starr, James McPhelemy, Roger McPhelemy, in and to certain placer ground described as follows: Beginning at a post in the east line of Thos. Starr's Ditch and Placer Claim,
174 which bears north 14 degrees 17 minutes west 134.5 feet from cor. No. 49; thence north 62 degrees east 333.5 feet; thence north 68 degrees 30 minutes east 500 feet; thence north 75 degrees 45 minutes east 500 feet; thence south 69 degrees 51 minutes east 500 feet; thence south 70 degrees east 500 feet; thence north 39 degrees 30 minutes west 500 feet; thence north 70 degrees west 500 feet; thence north 69 degrees 51 minutes west 500 feet; thence south 75 degrees 45 minutes west 500 feet; thence south 68 degrees 30 minutes west 500 feet; thence south 62 degrees west 114.5 feet; thence south 14 degrees 17 minutes east 504.6 feet to place of beginning, in California Mining District, containing $18\frac{98}{100}$ acres, to Thomas Starr, for the sum of one dollar, &c.

Date of acknowledgement, Aug. 29th, 1877.

Recorded August 30th, A. D. 1877, at 7 P. M.

Thomas Starr to Certificate Placer Claim.

{ Book 10, / Page 122. } Know all men by these presents: That I, Thomas Starr, of the county of Lake and State of Colorado, and a citizen of the United States, claim by the right of purchase and location 170.7 acres of placer mining ground situated in the county and State aforesaid, and in the California Mining District.

Now, therefore, for the purpose of better defining and locating and consolidating the several claims, I have this 30th day of August, A. D. 1877, relocated the following described placer claims, to wit:

degrees 20 minutes east 654.5 feet to cor. No. 83; thence south 88 degrees 5 minutes west 1428.5 feet to the place of beginning.

Dated this 30th day of August, A. D. 1877.

THOMAS STARR.

Recorded August 30th, A. D. 1877, at 7 P. M.

JOS. H. WELLS, *Recorder.*

James McPhelemy, Jr., et al. to Certificate Placer Claim.

{Book 10, Page 126.} Know all men by these presents: That we, the undersigned, do claim by purchase 58.03 acres of placer mining ground,

feet to east line of said claim 1000 feet to cor. No. 9; thence north 68 degrees 30 minutes east 500 feet to cor. No. 10; thence north 75 degrees 45 minutes east 500 feet to cor. No. 11; thence south 69 degrees 51 minutes east 500 feet to cor. No. 178 12; thence south 70 degrees east 500 feet to cor. No. 13; thence north 39 degrees 30 minutes west 500 feet to cor. No. 14; thence north 70 degrees west 500 feet to cor. No. 16; thence south 75 degrees 45 minutes west 500 feet to cor. No. 17; thence south 68 degrees 30 minutes west 500 feet to cor. No. 18; thence south 62 degrees west 114.5 feet *each* line T. Starr's claim 167.2 feet west line of Thomas Starr's claim 1000 feet to cor. No. 19, south 60 degrees west 500 feet to cor. No. 20; thence south 50 degrees west 500 feet to cor. No. 21; thence south 52 degrees west 500 feet to cor. No. 22; thence south 57 degrees 15 minutes west 500 feet to cor. No. 23; thence south 57 degrees 23 minutes west 500 feet to cor. No. 24; thence south 45 degrees west 500 feet to cor. No. 25; thence south 50 degrees 30 minutes west 500 feet to cor. No. 26; thence south 39 degrees 80 minutes east 500 feet to the place of beginning.

Dated this 28th day of August, A. D. 1877.

JAMES McPHELEMY, JR.
ROGER McPHELEMY.
PETER STARR.

Recorded August 30th, A. D. 1877, at 7 P. M.

S. D. Breece et al. to Certificate Placer Claim.

{Book 10, Page 127.} Know all men by these presents: That we, the undersigned, claim by the right of relocation 10.44 acres of placer mining ground, and have this 21st day of August, A. D. 1877, relocated the following described premises, situated in California mining district, county of Lake and State of Colorado, to wit:

Beginning at cor. No. 1, a post in mound of stones which bears from U. S. locating monument No. 1, established by J. S. Titcomb, north 89 degrees 45 minutes west, va. 15 degrees east; thence north

88 degrees 5 minutes east 1428.5 feet to cor. No. 2; thence south 16 degrees 20 minutes east 142 feet to cor. No. 3; thence south 74 degrees 28 minutes west 1371.4 feet to cor. No. 4; thence north 17 degrees 50 minutes west 480 feet to the place of beginning.
179 The above relocation is made to correct errors and to adjust the lines of other parties.

S. D. BREECE.
AUG. R. MEYER.
G. L. HENDERSON.
W. H. BRADT.

Recorded August 30th A. D. 1877, at 7 P. M.

Thomas Starr to Certificate Placer Claim.

{ Book 10, } { Page 250. } Know all men by these presents: That I, Thomas Starr, of the county of Lake and State of Colorado, and a citizen of the United States, claim by the right of purchase and location 158.25 acres of placer mining ground, situated in the county and State aforesaid, and in California mining district. Now, therefore for the purpose of better defining and locating and consolidating the several claims, I have this 12th day of December, A. D. 1877, relocated the following described placer claims, to wit:

Beginning at cor. No. 1, a granite rock which bears from U. S. locating monument No. 1, established by J. S. Titcomb, U. S. deputy mineral surveyor, north 89 degrees 45 minutes west 418 feet, (variation in all courses, 15 degrees east); thence south 17 degrees 50 minutes east 1437 feet to cor. No. 2, a granite rock; thence north 63 degrees 30 minutes east 575 feet to cor. No. 3, a granite rock; thence north 68 degrees east 289.5 feet to cor. No. 4, a granite rock; thence north 84 degrees 38 minutes east 179 feet to cor. No. 5, a granite rock; thence south 89 degrees east 215 feet to cor. No. 6, a granite rock; thence south 82 degrees 19 minutes east 277.5 feet to cor. No. 7, a granite rock; thence south 77 degrees 42 minutes east 169.5 feet to cor. No. 8, a granite rock; thence south 63 degrees 30 minutes east 332 feet to cor. No. 9, a granite rock; thence south 62 degrees 50 minutes east 179 feet to cor. No. 10, a granite rock; thence north 38 degrees 20 minutes east 620 feet to cor. No. 11, a granite rock; thence south 62 degrees 30 minutes east 17 feet to cor. No. 12, a granite rock; thence south 42 degrees 55 minutes east 950 feet to cor. No. 13, a porphry rock; thence south 28 degrees 30 minutes east 150 feet to cor. No. 14, a granite rock; thence north 49 degrees 30 minutes east 598 feet to cor. No. 15, a granite rock; thence north 49 degrees 5 minutes west 1088 feet to cor. No. 16, a sandstone; thence north 26 degrees 24 minutes east 486 feet to cor. No. 17, a granite rock; thence north 64 degrees west 200 feet to
180 cor. No. 18, a porphry rock; thence north 26 degrees east 915 feet to cor. No. 19, a granite rock, from which a blazed pine

12 inches diameter bears south 14 degrees 28 minutes east 32 feet, a blazed pine 16 inches in diameter bears north 57 degrees 25 minutes east 17.5 feet; thence north 75 degrees 18 minutes west 1027 feet to cor. No. 20, a granite rock; thence north 28 degrees 20 minutes west 370.4 feet to cor. No. 21, a granite rock; thence north 0 degrees 3 minutes east 607 feet to cor. No. 22, a granite rock; thence north 14 degrees 17 minutes west 136.94 feet to cor. No. 23, a granite rock; thence north 62 degrees east 332.5 feet to cor. No. 24, a granite rock; thence north 68 degrees 30 minutes east 500 feet to cor. No. 25, a granite rock; thence north 75 degrees 35 minutes east 500 feet to cor. No. 26, a granite rock, from which a pine 18 inches in diameter bears south 25 degrees east 19 feet, a pine 10 inches in diameter bears south 59 degrees 45 minutes west 15 feet; thence south 69 degrees 51 minutes east 500 feet to corner No. 27, a granite rock; thence south 70 degrees east 500 feet to corner No. 28, a granite rock; thence north 39 degrees 30 minutes west 500 feet to corner No. 29, a granite rock, from which a pine 12 inches in diameter bears north 82 degrees east 65 feet, a pine 16 inches in diameter bears north 46 degrees 50 minutes east 61 feet; thence north 70 degrees — minutes west 500 feet to cor. No. 30, a granite rock; thence north 69 degrees 51 minutes west 500 feet to cor. No. 31, a granite rock; thence south 75 degrees 35 minutes west 500 feet to cor. No. 32, a granite rock; thence south 68 degrees 30 minutes west 500 feet to cor. No. 33, a granite rock; thence south 62 degrees west 114 feet to cor. No. 34, a granite rock; thence 14 ° 17′ west 89.33 feet to cor. No. 35, a granite rock, from which a mound of stone on Mt. Elbert bears south 42 degrees 58 minutes west, a high mountain peak (name unknown) bears south 4 degrees 51 minutes west ——; thence north 31° 55′ west 328.5 feet to cor. No. 36, a granite rock; thence N. 14° 14′ W. 240 $\frac{8}{10}$ feet to cor. No. 37, a granite rock;
181 thence north 2 degrees east 424 feet to cor. No. 38, a granite rock; thence north 2 degrees 35 minutes east 442 feet to cor. No. 39, a granite rock; thence north 10 degrees 50 minutes east 560.7 feet to cor. No. 40, a granite rock; thence north 10 degrees 37 minutes east 841 feet to cor. No. 41, a granite rock; thence north 32 degrees 7 minutes east 482.2 feet to cor. No. 42, a granite rock; thence north 49 degrees 13 minutes east 150.5 feet to cor. No. 43, a granite rock; thence north 78 degrees 42 minutes east 142 feet to cor. No. 44, a granite rock; thence north 55 degrees east 141 feet to cor. No. 45, a granite rock, from which a blazed pine 15 in. in dia. bears south 33 degrees west 53.5 feet, a blazed pine 16 in. in dia. bears south 38 degrees 46 minutes east 24 feet; thence north 59 degrees 42 minutes east 100 feet to cor. No. 46, a granite rock; thence south 70 degrees 8 minutes east 249.5 feet to cor. No. 47, a granite rock; thence north 50 degrees east 166.5 feet to cor. No. 48, a granite rock; thence south 80 degrees 10 minutes east 180 feet to cor. No. 49, a granite rock; thence south 74 degrees 15 minutes east 97 feet to cor. No. 50, a granite rock; thence south 40 degrees 28 east 125 feet to cor. No. 51, a granite rock; thence north 30 degrees 56 minutes east 50 feet to cor. No. 52,

a granite rock, from which a high mountain peak (name unknown) bears N. 53 degrees 51 minutes west, a high mountain peak (name unknown) bears north 15 degrees 8 minutes west; thence 43 degrees 32 minutes west 150 feet to cor. No. 53, a granite rock; thence north 72 degrees 15 minutes west 97 feet to cor. No. 54, a granite rock; thence north 80 degrees 10 minutes west 180 feet to cor. No. 55, a granite rock; thence south 50 degrees west 166.5 feet to cor. No. 56, a granite rock; thence north 70 degrees 8 minutes west 249.5 feet to cor. No. 57, a granite rock; thence south 72 degrees 54 minutes west 28.5 feet to cor. No. 58, a granite rock; thence south 57 degrees west 126 feet to cor. No. 59, a granite rock; thence south 44 degrees west 69
182 feet to cor. No. 60, a granite rock; thence south 65 degrees 10 minutes west 75 feet to cor. No. 61, a granite rock; thence south 89 degrees 52 minutes west 81 feet to cor. No. 62, a granite rock; thence south 62 degrees 50 minutes west 10 feet to cor. No. 63, a granite rock; thence south 35 degrees 24 minutes west 54.5 feet to cor. No. 64, a granite rock; thence south 56 degrees 20 minutes west 104 feet to cor. No. 65, a granite rock; thence south 39 degrees west 192 feet to cor. No. 66, a granite rock; thence south 27 degrees 36 minutes west 292.5 feet to cor. No. 67, a granite rock; thence south 20 degrees 40 minutes west 157.4 feet to cor. No. 68, a granite rock; thence south 10 degrees 22 minutes west 24 feet to cor. No. 69, a granite rock; thence 7 degrees 15 minutes west 445 feet to cor. No. 70, a granite rock; thence south 15 degrees 50 minutes west 256.5 feet to cor. No. 71, a granite rock; thence south 8 degrees 26 minutes west 303 feet to cor. No. 72, a granite rock; thence south 3 degrees 6 minutes west 375 feet to cor. No. 73, a granite rock; thence south 7 degrees 40 minutes east 70.5 feet to cor. No. 74, a granite rock; thence south 4 degrees 10 minutes west 297 feet to cor. No. 75, a granite rock; thence south 1 degree 10 minutes east 157 feet to cor. No. 76, a granite rock; thence south 15 degrees 20 minutes east 222.5 feet to cor. No. 77, a granite rock; thence south 30 degrees 10 minutes east 347.5 feet to cor. No. 78, a granite rock; thence south 13 degrees east 150 feet to cor. No. 79, a granite rock; thence south 13 degrees 10 minutes east 580 feet to cor. No. 80, a granite rock; thence south 1 degree 20 minutes east 600 feet to cor. No. 81, a granite rock; thence south 29 degrees 40 minutes east 330.5 feet to cor. No. 82, a granite rock; thence south 73 degrees 40 minutes west 1411 feet to cor. No. 83, a granite rock; thence south 16 degrees 20 minutes east 650 feet to cor. No. 84, a granite rock; thence south 88 degrees 5 minutes west 1428.5 feet to cor. No. 1, the place of beginning. The said placer claim lies north and west of the town of Old Oro, in the county of Lake and State of Colorado.

183 The former relocation of said claim was made the 30th day of August, 1877, the record of which is found in Book 10, page 122, of the records of said county and State. The present relocation is made for the purpose of eliminating errors in former relocations.

THOMAS STARR.

Recorded Dec. 17th, A. D. 1877, at 5 P. M.

Quit-claim Deed dated June 20th, 1877.

{ Book C. / Page 339. } This deed transfers all the right, title, and interest of Aug. R. Meyer, W. H. Bradth, S. D. Breece, and Geo. L. Henderson in and to certain placer ground, to wit:

Beginning at cor. No. 1 of Meyer, Breece, Henderson & Co.'s Placer Claim; thence S. 65 degrees 57 minutes E., va. 15 degrees E., 400 feet to cor. No. 2; thence N. 40 degrees 20 minutes E. 305 feet to the upper side of the Starr ditch; thence along the upper side of ditch to a point where Starr's fence crosses the ditch; thence along fence to the west line of Meyer, Breece, Henderson & Co.'s claim; thence south along said line to the place of beginning, in California Mining District, county of Lake, State of Colorado, to Thomas Starr for the sum of fifty dollars.

Date of acknowledgement, June 20th, 1877. Recorded Dec. 24th, A. D. 1877, at 1 P. M.

184 *Quit-claim Deed dated May 21st, 1875.*

{ Book C. / Page 342. } This deed transfers all the right, title, and interest of Lucius Bradshaw in and to certain mining property, to wit:

Claims 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23 in Stray Horse Gulch, California Mining District, to Peter Starr for the sum of $500.00.

Date of acknowledgement, May 21st, A. D. 1875. Recorded Dec. 24th, A. D. 1877, at 7 P. M.

STATE OF COLORADO, } *ss:*
County of Lake, }

I, Jos. H. Wells, clerk and recorder in and for said county, in the State aforesaid, do hereby certify that the above and foregoing is to the best of my knowledge and belief a true and correct abstract of the property therein mentioned, and sets forth all that appears of record concerning the said placer claim as now remains of record now in my office.

Given under my hand and official seal this 2d day of March, A. D. 1878.

JOS. H. WELLS,
County Clerk and Recorder.

(Endorsed:) Abstract of Title; case of the Starr Placer Claim, survey No. 255, district No. 3, Lake county, Colorado; applicant, Thomas Starr; filed in the United States Land Office at Fairplay, Colorado, on the 18th day of March, 1878; Jno. J. Henry, register; Fred. C. Morse, Fairplay, Colorado, attorney for applicant.

The plaintiff, by its counsel, objected to the introduction of the said record of proceedings which took place before the patent was issued, for the reasons that it was not legal to go behind the patent

or to introduce any evidence *aliunde* the patent to show its validity or invalidity; because the patent is conclusive evidence in this action of the regularity of all the proceedings which took place in the land office before its issuance, and because no evidence can be in-
185 troduced to show the legality or illegality of the possessory or pre-emption title to the tract of placer land included in the placer patent after the patent has issued; that the patent cannot be attacked collaterally in any way in this action; but the court overruled said objection, and admitted the said record of proceedings in evidence; to which ruling of the court, in admitting said record of the proceedings from the land office in evidence, the plaintiff, by its counsel, then and there excepted.

CHARLES I. THOMSON, being called and sworn in behalf of defendants, testified as follows:

Q. Mr. Thompson, who comprises your law firm, or who did comprise your law firm in the winter and spring of the present year?

A. In the winter it was Thomson & Hereford, and in the spring it was Thomson, Hereford & Sayer.

Q. Please state to the jury what relation your firm bore to the plaintiff in this case at that time.

A. The St. Louis Smelting and Refining Company?

Q. Yes.

In the winter our firm was composed of Thomson & Hereford, and in the spring, Thomson, Hereford & Sayer. Our firm bore a peculiar relation to the St. Louis Smelting & Refining Company; part of it bore a relation, and part not. I think I was acting as attorney for plaintiff in the case. I never acted as agent, or anything of that kind, outside of doing their law business. Our office was not a real estate office. No real estate business was ever done in our office. I cannot answer, yes or no, whether Mr. Hereford was agent,
186 but I can tell what I was told about it; he did act as agent of the company in making what is termed contracts for sale, with men who had got upon the ground, for the company. Cannot prove by me by whose authority exhibit marked No. "7" was published; it was not from our office. It is partly a fact that at that time, in the office of Thomson, Hereford & Sayer, there had been a plat made and prices fixed on ground owned by the plaintiff company. It is partly true that we were authorized to make contracts for the sale of lots, and partly not. Prior to that time there had been a plat made of their lots, and, as far as prices were concerned, I understand there is a vast difference in opinion about it. I never had any authority to fix prices, and would not have done it if I had. It is my understanding that prices were fixed on these lots at that time by the St. Louis Smelting and Refining Company. There were prices affixed to lots, but by what authority I do not know; to a portion no prices were affixed. Witness reads aloud Exhibit 8, stating that he had not before seen it. I will say this, Mr. Patterson, that this is the first time I ever saw that, but it is a very good notice. It is signed

by Jno. B. Maude. Witness is handed a receipt for money paid plaintiff company for rent, and says it was in his handwriting, signed Thomson & Hereford, by authority of Mr. Hereford, agent; I don't know whether I did the whole of the writing or not; that is my writing on the back. I wish you would prove whether or not Mr. Hereford was agent at that time by somebody else; I don't know. I signed it. I don't really know whether or not Mr. Hereford was agent of the company for acts of that kind, making contracts
187 and agreements. I did not know whether he was agent or not. This is not the only contract of that kind on which my handwriting will appear and that indorsement. I guess you had better understand it that way, likely, that although I signed Hereford's name as agent, I did not know whether or not he was agent. I never heard Mr. Harrison say he was agent; it was a general thing around town that I need not inquire into. I had been in Leadville about two or three months, and I took a great many things for granted that I did not know. I went to Leadville in May, 1878. Mr. Weise purported to be agent of the plaintiff company. I know of him acting as such, and I will say further that I understood that he was agent, and named by the company in their certificate that was filed. Witness is handed several leases, marked exhibits 2, 3, 4, & 5, and states that he thinks they are in the handwriting of Mr. Weise. The land mentioned in the leases is a portion of the ground in controversy.

Mr. PATTERSON: Then, if the court please, we offer them to the jury as evidence; the lease from A. V. Weise for the St. Louis Company to J. C. Blake, dated Nov. 4th, '78; lease from same party to Rachel J. Sharp, dated October 10th, 1878; lease from same party to the Chronicle Publishing Company, with some notices pasted on back, dated March 7, 1879, and certified copy of lease from the St. Louis Smelting & Refining Company to B. M. Newcomb, of certain real estate, dated October 19, 1878, respectively marked exhibits "2," "3," "4," and "5," which are in the words and figures following, to wit:

188 *Lease.*

Know all men by these presents: That the St. Louis Smelting and Refining Company, of the city of St. Louis and State of Missouri, by A. V. Weise, agent for the purposes herein below set forth, have this day rented and leased, and do by these presents hereby rent and lease unto John C. Blake, for the period and on the terms hereinafter named, the following described real estate situate in the county of Lake and State of Colorado, to wit: A certain tract or parcel of ground located in the tract of land adjoining the town of Leadville in the said county and State, and for which a patent is now being applied for in the name of Thomas Starr, from the United States, and more particularly described, to wit: Commencing thirty-four feet west of the intersection of the south line of Walnut street with the

west line of Harrison avenue, thence west forty feet, thence extending southwardly of the said width of forty feet and parallel with said west line of Harrison avenue to such depth as upon survey made shall constitute the south line of lots fronting upon said south side of said Walnut street, in the block in which said piece of ground is located. The terms and conditions of this lease are as follows: Said John C. Blake shall occupy said premises as a lessee or tenant of said St. Louis Smelting and Refining Company until said company shall give him thirty days' notice to vacate said premises or quit the possession thereof, or until he shall acquire a title thereto by purchase from the said company. Said lessee, John C. Blake, hereby agrees
189 to pay as rent therefor during the time he shall occupy the said premises as such tenant the sum of $1.50 per month, and shall also pay the expenses of this lease. Said rent is payable monthly in advance, and said tenancy shall run from month to month. When the tenancy which is hereby created shall expire by notice or for any cause, said lessee John C. Blake shall have the privilege of removing from said premises any improvements placed thereon by him, provided said privilege shall not extend to a later date than January 1st, 1879, and the said lessee John C. Blake agrees on his part to all the terms of this lease, and to pay the rent and expenses as aforesaid at the time and in the manner aforesaid. He, the said lessee, may, however, terminate the said tenancy at any time, by giving to the said St. Louis Smelting and Refining Company ten days' previous notice of his intention so to do. Said John C. Blake, lessee as aforesaid, may transfer his rights under this lease, provided the written consent of the St. Louis Smelting and Refining Company shall have first been obtained, but he shall not carry or permit to be carried on any unlawful business, or any business which would create a nuisance on said property; and should any such business at any time be carried on upon said property, then this lease shall be null and void, and the rights and tenancy hereunder of the said John C. Blake, lessee as aforesaid, or any person or persons holding under him, shall terminate and cease ten days after written notice by said agent to said John
190 C. Blake, lessee aforesaid, shall have been dropped in the Leadville post-office or delivered to him in person, or to any person at the usual place of abode of said ——— lessee. It is further agreed that said lessee is hereby guaranteed the prior right to purchase the premises so occupied by him at such price as the St. Louis Smelting and Refining Company may hereafter set upon the said real estate whenever offered for sale, it being hereby understood that the said company hereby agrees and obligates itself until the day of not to sell the above described premises to any person without first giving said lessee or his agent in Leadville twenty-four hours' verbal notice or forty-eight hours' written notice by mail: Provided, however, first, That the term of written notices by mail anywhere herein referred to shall begin at eight o'clock A. M. after the date of mailing such notices. Second, That said lessee shall give said company, at the office of the Harrison Reduction Works, timely

written notice of the name of his agent, if he has any authorized to act for him, which said agent of said lessee shall be a resident of Leadville, Colorado. Third, That said company shall not be required to address to said lessee or his agent any notice or notices herein provided for, or in anywise appertaining to this lease, to any place other than Leadville, and that any such notice mailed by said company in Leadville and addressed to said lessee is hereby acknowledged to be as good and legal as if delivered to him in person. Fourth, That in the event of a proposed sale of said premises to any person other than said lessee, and before such sale shall take place, said lessee shall have thirty days' notice to vacate said premises as herein before provided. Fifth, That the said lessee, if he desire to
191 purchase, shall, before the expiration of said term of notice, tender to said company the sum or price offered by any *bona-fide* bidder for said premises whose bid may be satisfactory to said company. Sixth, That said lessee may at his own expense require of said agent of the St. Louis Smelting and Refining Company to make affidavit that he has, in good faith and without evasion of the spirit of this agreement, received a bid for said premises at the price he shall name at which he proposes to accept. Seventh, The said company reserves the right to reject or consider and accept notes bearing *ing* rate of interest as the equivalent of cash, when tendered by any bidder for said premises.

In witness whereof, we have hereunto set our hands and seals this fourth day of November, A. D. 1878.

(Signed) ST. LOUIS SMELTING AND REFINING CO. [SEAL.]
By A. V. WEISE, Agt. [SEAL.]
(Signed) JOHN C. BLAKE. [SEAL.]

(Endorsed:) Deft's. Exhibit 2; 11 | 26 | '79; J.W. Christy, steng'r. Entered.

Lease.

Know all men by these presents: That the St. Louis Smelting & Refining Company, of the city of St. Louis and State of Missouri, by A. V. Weise, agent for the purposes herein below set forth, have this day rented and leased, and do by these presents hereby rent and lease unto Rachel J. Sharp, for the period and on the terms hereinafter named, the following described real estate situate in the
192 county of Lake and State of Colorado, to wit: A certain tract or parcel of ground located in the tract of land adjoining the town of Leadville, in the said county and State, and for which a patent is now being applied for, in the name of Thomas Starr, from the United States, and more particularly described, to wit: Ten feet in width lying upon the north side of and fronting upon the county road, which is the extension of Chestnut street in said town between the intersection of said road with Harrison avenue and the crossing

thereof by the Oro Company's ditch immediately to the east of and adjoining the building occupied by Newcomb & Miller as an assay office, and running back from said road to the south the same width seventy-five feet, more or less, to the south line of the lot this day leased by said company to Alexander Sharp. The terms and conditions of this lease are as follows: Said Rachel J. Sharp shall occupy said premises as a lessee or tenant of said St. Louis Smelting & Refining Company until said company shall give him thirty days' notice to vacate said premises or quit the possession thereof, or until he shall acquire a title thereto by purchase from said company. Said lessee, Rachel J. Sharp, hereby agrees to pay, as rent therefor during the time she shall occupy the said premises as such tenant, the sum of $1.50 per month, and shall also pay the expenses of this lease. Said rent is payable monthly in advance, and said tenancy shall run from month to month. When the tenancy which is hereby created shall expire by or from any cause, said lessee, Rachel J. Sharp,
193 shall have the privilege of removing from said premises any improvements placed thereon by her, provided said privilege shall not extend to a later date than January first, 1879, and the said lessee, Rachel J. Sharp, agrees on her part to all the terms of this lease and to pay the rent and expenses as aforesaid at the time and in the manner as aforesaid. She may, however, terminate the said tenancy at any time by giving to the said St. Louis Smelting and Refining Company ten days' previous notice of her intention so to do. Said Rachel J. Sharp, lessee aforesaid, may transfer her rights under this lease, provided the written consent of the St. Louis Smelting and Refining Company shall have first been obtained; but she shall not carry on or permit to be carried on any unlawful business, or any business which would create a nuisance on said property; and should any such business at any time be carried on upon said property, then this lease shall be null and void, and the rights and tenancy hereunder of the said R. J. Sharp, lessee as aforesaid, or any person or persons holding under her, shall terminate and cease ten days after written notice by said agent to said R. J. Sharp, lessee aforesaid, shall have been dropped in the Leadville post-office, or delivered to her in person, or to any person, at the usual place of abode of said lessee. It is further agreed that said lessee is hereby guaranteed the prior right to purchase the premises so occupied by him at such price as the St. Louis Smelting & Refining Co. may hereafter set upon the said real estate whenever offered for sale, it being hereby understood that the said company hereby agrees and
194 obligates itself until the —— day of ——— not to sell the above described premises to any person without first giving said lessee or his agent in Leadville twenty-four hours' verbal notice, or forty-eight hours' written notice by mail; provided, however, first, that the term of written notices by mail anywhere herein referred to shall begin at eight o'clock A. M. after the date of mailing such notices; second, that said lessee shall give said company, at the office of the Harrison Reduction Works, timely written notice of the name

of his agent, if he has any authorized to act for him, which said agent of said lessee shall be a resident of Leadville, Colorado; third, that said company shall not be required to address to said lessee or his agent any notice or notices herein provided for, or in anywise appertaining to this lease, to any place other than Leadville, and that any such notice mailed by said company in Leadville and addressed to said lessee is hereby acknowledged to be as good and legal as if delivered to him in person; fourth, that in the event of a proposed sale of said premises to any person other than said lessee, and before such sale shall take place, said lessee shall have thirty days' notice to vacate said premises, as hereinbefore provided; fifth, that the said lessee, if he desire to purchase, shall, before the expiration of said term of notice, tender to said company the sum or price offered by any *bona-fide* bidder for said premises whose bid may be satisfactory to said company; sixth, that said lessee may at his own expense require of said agent of the St. Louis Smelting and Refining Company to make affidavit that he has in good faith, and without evasion of the spirit of this agreement, received a bid for
195 said premises at the price he shall name and which he proposes to accept; seventh, the said company reserves the right to reject or consider and accept notes bearing *ing* rate of interest as the equivalent of cash, when tendered by any bidder for said premises.

In witness whereof, we have hereto set our hands and seals this 10th day of October, A. D. 1878.

ST. LOUIS SMELTING & REFINING CO., [SEAL.]
(Signed) By A. V. WEISE, Ag't. [SEAL.]
(Signed) MRS. RACHEL J. SHARP. [SEAL.]

LEADVILLE, COLO., *Jan'y* 13, 1879.

For value received, I hereby assign, set over, and transfer to B. M. Newcomb all my right, title, and interest and to the within lease and the property described in the same.

(Signed) RACHEL J. SHARP,
By ALEX. SHARP.

(Endorsed:) Def'ts' Exhibit 3; 11 | 25 | '79; J. W. Christy, sten'g'r; entered.

Lease.

Know all men by these presents: That the St. Louis Smelting and Refining Company, of the city of St. Louis and State of Missouri, by A. V. Weise, agent for the purposes herein below set forth, have this day rented and leased, and do by these presents hereby rent and lease unto the Chronicle Publishing Co., for the period and on the terms hereinafter named, the following described real estate, situate in the county of Lake and State of Colorado, to wit: A certain
196 tract or parcel of ground located in the tract of land adjoining the town of Leadville, in the said county and State, and

for which a patent is now being applied for in the name of Thomas Starr, from the United States, and more particularly described, to wit: A strip of ground twenty-five feet in width, fronting on the west side of Harrison avenue, running back to the west line of the ground belonging to said company, and adjoining on the north the ground leased to Thomson & Hereford, the south line of the lot hereby leased being fifty feet north of the north line of the alley first south of Walnut street.

The terms and conditions of this lease are as follows: Said lessee shall occupy said premises as a lessee or tenant of said St. Louis Smelting and Refining Company until said company shall give it thirty days' notice to vacate said premises or quit the possession thereof, or until he shall acquire a title thereto by purchase from the said company. Said lessee hereby agrees to pay as rent therefor, during the time it shall occupy the said premises as such tenant, the sum of $5.00 per month, and shall also pay the expenses of this lease. Said rent is payable monthly in advance, and said tenancy shall run from month to month. When the tenancy which is hereby created shall expire by notice, or from any cause, said lessee shall have the privilege of removing from said premises any improvements placed thereon by it. And the said lessee agrees on its part to all the terms of this lease, and to pay the rent and expenses aforesaid at the time and in the manner as aforesaid. Said lessee may, however, terminate
197 the said tenancy at any time by giving to the said St. Louis Smelting and Refining Company ten days previous notice of its intention so to do. Said lessee may transfer its rights under this lease, provided the written consent of the St. Louis Smelting and Refining Company shall have first been obtained; but it shall not carry on, or permit to be carried on, any unlawful business, or any business which would create a nuisance on said property; and should any such business at any time be carried on upon said property, then this lease shall be null and void, and the rights and tenancy hereunder of the said lessee or any person or persons holding under him shall terminate and cease ten days after written notice by said agent to said lessee shall have been dropped in the Leadville post-office, or delivered to said lessee in person, or to any person at the usual place of abode of said lessee. It is further agreed that said lessee is hereby guaranteed the prior right to purchase the premises occupied by him at such price as the St. Louis Smelting and Refining Company may hereafter set upon the said real estate whenever offered for sale, it being hereby understood that the said company hereby agrees and obligates itself the above described premises to any person without first giving said lessee, or his agent in Leadville, twenty-four hours' verbal notice, or forty-eight hours' written notice by mail; provided, however, first, that the term of the written notices by mail anywhere herein referred to shall begin at eight o'clock A. M. after the date of mailing such notices; second, that said lessee shall give said company, at the office of the Harrison Reduction Works, timely

written notice of the name of its agent, and if it has any au-
198 thorized to act for it, which said agent of said lessee shall be a resident of Leadville, Colorado; third, that said company shall not be required to address to said lessee or its agent any notice or notices herein provided for or in anywise appertaining to this lease to any place other than Leadville, and that any such notice mailed by said company in Leadville, and addressed to said lessee, is hereby acknowledged to be as good and legal as if delivered to it in person; fourth, that in the event of a proposed sale of said premises to any person other than said lessee, and before such sale shall take place, said lessee shall have thirty days' notice to vacate said premises, as hereinbefore provided; fifth, that the said lessee, if it desire to purchase, shall, before the expiration of said term of notice, tender to said company the sum or price offered by any *bona-fide* bidder for said premises whose bid may be satisfactory to said company; sixth, that said lessee may, at its own expense, require of said agent of the St. Louis Smelting and Refining Company to make affidavit that it has in good faith, and without evasion of the spirit of this agreement, received a bid for said premises at the price he shall name and which he proposes to accept; seventh, the said company reserves the right to reject or consider and accept notes bearing *ing* rate of interest as the equivalent of cash, when tendered by any bidder for said premises.

In witness whereof, we have hereunto set our hands and seals this day of , A. D. 1878.

ST. LOUIS SMELTING & REFINING CO. [SEAL.]
(Signed) By A. V. WEISE, Ag't. [SEAL.]
[SEAL.]

199 (Endorsed:) Notice.—Notice is hereby given that prices to lots have been fixed and the plat completed of the ground owned by the St. Louis Smelting and Refining Company, for which patent has recently been granted. which plat and list of prices may be found at the office of Thomson, Hereford & Sayer, at which office parties desiring to purchase may apply and obtain deeds.

Entered.—Price fixed on within property on account of being a newspaper, $30 per front foot. Thomson and Hereford; by order of A. P. Hereford, Agt.

To whom it may concern:

The Secretary of the Interior having granted a patent to Thomas Starr, and the St. Louis Smelting and Refining Company having acquired title through said patent to certain grounds as platted, which said plat is now on file in the office of the Harrison reduction works in Leadville: Now, this is to notify all parties occupying lots or ground embraced in said patent belonging to the St. Louis Smelting and Refining Company, by consent of said company or otherwise, to

call at the office of Thomson, Hereford & Sayer within fifteen days from this date and arrange for the possession thereof.

JOHN B. MAUDE,
Vice-President St. L. S. and R. Co.

MARCH, 7, 1879.

Deft's Exhibit 4; 11 | 23 | 79; J. W. Christy, steng'r.

Lease.

200 ST. LOUIS SMELTING CO. TO B. M. NEWCOMB. } Certified copy.

Know all men by these presents: That the St. Louis Smelting and Refining Company, of the city of St. Louis and State of Missouri, by A. V. Weise, agent for the purposes herein below set forth, have this day rented and leased, and do by these presents hereby rent and lease unto B. M. Newcomb, for the period and on the terms hereinafter named, the following described real estate situate in the county of Lake and State of Colorado, to wit: A certain tract or parcel of ground located in the tract of land adjoining the town of Leadville, in the said county and State, for which a patent is now being applied for in the name of Thomas Starr, from the United States, and more particularly described, to wit: Commencing at the southeasterly corner of the building on the north side of the county road, which is the extension of Chestnut street, in Leadville, Lake county, Colorado, which said building is located between the point where said Chestnut street intersects Harrison avenue in said town, and the point where the ditch crosses said county road, and is now occupied by Newcomb and Miller as an assay office; running thence westwardly along the north line of said road twenty-five feet, and extending back from the said north lines of said road to the northward, and of the said width of twenty-five feet through the entire length thereof, seventy-five (75) feet more or less to the alley.

201 The terms and conditions of this lease are as follows: Said B. M. Newcomb shall occupy said premises as a lessee or tenant of said St. Louis Smelting and Refining Company until said company shall give him thirty days' notice to vacate said premises or quit possession thereof, or until he shall acquire a title thereto by purchase from the said company. Said B. M. Newcomb hereby agrees to pay as rent therefor during the time he shall occupy the said premises as such tenant the sum of $1.50 per month, and he shall also pay the expenses of this lease. Said rent is payable monthly in advance, and said tenancy shall run from month to month. When the tenancy which is hereby created shall expire by notice, or from any cause, said lessee, B. M. Newcomb, shall have the privilege removing from said premises any improvements placed thereon by him, provided said privilege shall not extend to a later date than January 1st, 1879; and the said lessee, B. M. Newcomb, agrees on

belonging to the St. Louis Smelting and & Refining Company, are hereby requested and notified to present the same at the office of the undersigned.

(Signed) THOMSON, HEREFORD & SAYER.

LEADVILLE, *March* 29, 1879."

Exhibit "7:" "Notice.—Notice is hereby given that prices to lots have been fixed, and the plat completed of the ground owned by the St. Louis Smelting & Refining Company, for which patent has recently been granted, which plat and list of prices may be found at the office of Thomson, Hereford & Sayer, at which office parties desiring to purchase may apply and obtain deeds."

Exhibit 8: "To whom it may concern.—The Secretary of the Interior having granted a patent to Thomas Starr, and the St. Louis Smelting and Refining Company having acquired title through said patent to certain grounds as platted, which said plat is now on file in the office of the Harrison Reduction Works, in Leadville,
206 now this is to notify all parties occupying lots or ground embraced in said patent, belonging to the St. Louis Smelting & Refining Company, by consent of said company or otherwise, to call at the office of Thomson, Hereford & Sayer within 15 days from this date, to arrange for the possession thereof.

(Signed) JOHN B. MAUDE,
Vice-President St. L. S. and R. Co.

MARCH 7, 1879."

Plaintiff, by its counsel, objected to the introduction of said notices, because they were published a year and a half after the time of purchasing the tract of land by the plaintiff, and do not tend to show in any way that the said land was not purchased at the time of the purchase for the only purpose of erecting smelting works thereon; but the court overruled the said objection and admitted the said notices in evidence; to which ruling of the court in admitting said notices, plaintiff, by its counsel, then and there duly excepted.

Witness further testified: That he attempted to buy a piece of the said tract of land; saw Hereford, Loker and Thomson about it; they were agents of the company. Hereford referred me to Loker. This was November, 1878. Went with Loker to look at lots; went to Loker to buy lots; asked to buy lot near where Windsor Hotel stands, and Loker said that the company needed it for their wood yard. Witness points out on the map where Chestnut street is, and the location of the Harrison Reduction Works on the company's tract of land. Loker offered me a lot on Harrison avenue;
207 finally agreed for a lot on Harrison avenue about a block from the Ray lots, in controversy in this suit. Mrs. Ray's ground is within the tract where Loker offered to sell me lots. Plat of the St. Louis Smelting and Refining Company's addition

to the city of Leadville here produced and admitted in evidence. I made a partial agreement with Loker regarding the lot; Hereford fixed the price; after I was told the patent was secured, went to Thomson's office in response to the notice; Thomson said he had nothing to do with it, that Mr. Hereford was the man; my partner applied for our title under agreement; Mr. Maude, agent of the company, said the contract with Hereford was not good; that Mr. Hereford's contracts would not be recognized; repudiated Hereford's contract; the company occupies less ground now than formerly for their works; I should say they occupied five or six acres.

HERMAN HUBER, being recalled in behalf of defendants, testified as follows: I made a survey for the plaintiff for another addition to the city of Leadville; it is not a part of the tract of ground mentioned; the plat now shown me does not include any of the tract of ground mentioned as belonging to the St. Louis Company in this controversy. Plat (referred to as Exhibit 10) offered in evidence by defendants and objected to by plaintiff on the ground of irrelevancy—objection sustained by the court—points out the portion of ground on the plat which was conveyed by Starr to Meyer, but not included in deed of Meyer to the company, being a narrow strip on the south side of the tract.

208 The following plat of the St. Louis Smelting and Refining Company's addition to the city of Leadville was here offered and received in evidence without objection, and it is admitted that it is the same ground conveyed by Meyer to the plaintiff:

209 Second day, Nov'b'r 26, 1879, 9 A. M. Names of jurors called, who each answer.

Here the defendant called Charles L. Hall to further testify for defendant in support of his affirmative defense of *ultra vires*, but the court, after he was sworn, refused to have him testify, and refused to permit other witnesses to testify to the same matters, for the reason as given by the court that it was unnecessary, as it would instruct the jury upon the question of the validity of the patent, and that the case would turn upon that question alone, and for that reason it was unnecessary to consume further time in making out the said affirmative defense.

Counsel for the plaintiff here offered to introduce additional evidence to show that the ground was purchased for the sole and only purpose of erecting smelting works thereon in the spring of
210 1877, and that such smelting works were erected thereon and completed thereon before October, 1879, and have been in active operation smelting silver ores ever since. Upon this offer the court stated that it was well satisfied that the plaintiff acquired the property for a legitimate purpose, and if they got a little more than was really necessary that made no difference, and that if they pur-

chased it for a legitimate purpose, they were not prevented from selling it for town lots or any other purpose thereafter when circumstances arose which made it policy or profitable to do so.

Mr. SMYES: That is all we have to do. I will call in my colleagues. I understand your honor rules in this question of *ultra vires* as to obtaining this title to the property in 1877 cuts no figure here.

COURT: I am very well satisfied that plaintiffs acquired the property for legitimate purposes, and the circumstance that they got a little more than necessary for their use, if they got a little too much they could dispose of it in any way they wished, for town purposes or any other. In buying property for its use the company is not bound to limit itself to any number of acres, and if they buy a little more the purchase must be valid. I have no particular doubt upon that subject, but if we were going to decide the questions upon that point we might have to take more evidence.

211 And thereupon the court instructed the jury as follows:

213 The foregoing was all the evidence introduced on the trial of this case.

And thereupon the court charged and instructed the jury (among other things) the following, that is to say:

"That is to say, subject to the local rule of the different mining districts, they could obtain a title for 160 acres of land as a placer claim if the local rules would admit of their taking so much. If the local rules restricted them to a less quantity, they would have to conform to the local rules. The provision is, that the claim should not exceed 160 acres. It may be smaller if the local rules so provided."

To the giving of which portion of the said charge plaintiff, by its attorney, then and there duly excepted.

And the court further charged and instructed the jury as follows, that is to say: "In 1872 another act was passed upon that subject, which was somewhat different from that of 1866, but so far as it relates to the matters we have under consideration at this time, we may say that it was substantially the same."

To the giving of which portion of the charge of the court to the jury the plaintiff, by its attorney, then and there duly excepted.

The court also gave to the jury the following charge or instructions, viz.: "But, taking the two acts together, the act of 1870 and the act of 1872, it is to be said that it was required of a claimant for a placer claim that he should post a notice upon his claim, and that he should give notice by publication, and that he should show

214 that improvements had been made upon the claim, as required by the act of 1872. And that law was in force at the time this patent was applied for, at the time it was issued, and is still in force. So that it has become a question whether the patent which is before you was issued in accordance with these provisions of law. *Now, upon that we have to say that it was not*, because, as we have ascertained from an examination of the patent and from some of the

testimony that has been received with it, (the testimony of the proceedings in the land office,) this was an application made since the year 1870, since this act was passed, upon several claims, (12 or 15, perhaps, was the number,) and these claims are all embodied in this one claim which is described in the patent. The application appears to have been made as for one claim, and embodying 12 or 15 locations that were made at different times from perhaps 1865, or some time, or some time prior to the year 1870, up to the year 1877, and these were all embraced in one claim and one application, and the land officers have issued a patent upon that for one claim. Now this, we say, was not in conformity with the acts of Congress. If there were twelve or fifteen claims, it was incumbent upon the applicant, Mr. Starr, to show his right to each of these claims, to have each of them surveyed, to have the notice posted upon each, to give notice by publication, and take the same proceedings as to each one of the claims. If he had done so, it would be no objection that he had purchased some of them from the first locator, or from the grantees of the first locators, or that perhaps he had located
215 others of them himself. We would not inquire how he acquired the right to these several claims if he had taken the steps which the law required of him as to each one of them; but not having done that, having attempted to embody all of these claims in one application, and having made it substantially one claim, the proceeding was entirely irregular under the statute. If it had appeared that this application was made for one claim located before the year 1870, in pursuance to the rules of California mining district, then his application would have been regular, if the local rules of California mining district existing before the passage of this act of 1870 had provided that one person might hold so much as 164.61 acres. If this claim had been taken according to the local rules at that time, then his application would have been regular and proper; but, as I stated to you before, we have ascertained that the application was not of that character, that there are a number of claims consolidated in one, are one application made upon all of these claims for a quantity of land in excess of that which may be taken by one individual under these acts of Congress. For that reason we declare, as a matter of law, that this patent is void, and upon that the plaintiff fails altogether."

To the giving of which said last portion of the charge of the court to the jury the plaintiff, by its counsel, then and there duly excepted.

And the court further gave to the jury the following charge and instruction, that is to say:

"But upon what I have said to you in respect to this patent
216 and its validity, we find no title whatever in the plaintiff to this tract of land, and therefore it has become your duty, gentlemen, to return a verdict for the defendants."

To the giving of which last portion of the charge and instruction

of the court the plaintiff, by its counsel, then and there duly excepted.

And forasmuch as the matters and things above set forth do not fully appear of record, the said plaintiff tenders this his bill of exceptions, and prays that the same may be signed and sealed by the judge of this court, pursuant to the statute in such case made and provided, which is done accordingly this 5 day of December, being one of the judicial days of said term of court, A. D. 1879, at the city of Denver, in said district.

(Signed) MOSES HALLETT, [SEAL.]
Dist. Judge.

(Endorsed:) No. 344, Circuit Court U. S.; St. Louis Smelting and Refining Co. *vs.* Mrs. Sarah Ray *et al.;* bill of exceptions; filed Jan. 5, 1880; (signed) Edward F. Bishop, clerk; G. G. Symes, C. J. Thomson, attys. for plaintiff.

217 And afterwards and on, to wit, the 8th day of January, A. D. 1880, came again the said plaintiff, by its attorney as aforesaid, and filed in said court and in said cause its bond in appeal and sued out its writ of error; and the said bond in appeal is in words and figures as follows, to wit:

219 *Appeal Bond.*

U. S. Circuit Court, Colorado..

THE UNITED STATES OF AMERICA, }
District of Colorado. }

Know all men by these presents: That we, The St. Louis Smelting and Refining Company, as principal, and ——— ———, as sureties, are held and firmly bound unto Sarah Ray, C. Christopher, C. A. Lack, and F. F. Brune, in the full and just sum of two hundred and fifty ($250) dollars, to be paid to the said Sarah Ray, C. Christopher, C. A. Lack, and F. F. Brune, their executors or administrators; to which payment well and truly to be made we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this day of January, in the year of our Lord one thousand eight hundred and eighty.

Whereas lately, at the October Term, A. D. 1879, of the Circuit Court of the United States for the district of Colorado, in a suit pending in said court between The St. Louis Smelting and Refining Company, plaintiff, and Sarah Ray, C. Christopher, C. A. Lack, and F. F. Brune, defendants, judgment was rendered against the said The St. Louis Smelting and Refining Company and in favor of the said Sarah Ray, C. Christopher, C. A. Lack, and F. F. Brune, and the said St. Louis Smelting and Refining Company having obtained a writ of error of

the said court to reverse the judgment in the aforesaid suit, and a citation directed to the said Sarah Ray, C. Christopher, C. A. Lack, and F. F. Brune, citing and admonishing them to be and appear at a Supreme Court of the United States to be held at Washington on the eleventh day of October next:

Now, the condition of the above obligation is such, that if the said The St. Louis Smelting and Refining Company shall prosecute said writ to effect, and answer all costs if it fails to make good its plea, then the above obligation to be void; else to remain in full force and virtue.

(Signed) THE ST. LOUIS SMELTING AND REFINING CO. [SEAL.]
By G. G. SYMES, Att'y in fact. [SEAL.]
(Signed) W. I. JENKINS. [SEAL.]
(Signed) G. G. SYMES. [SEAL.]

Approved: Jan. 8, 1880. (Signed) MOSES HALLETT, *District Judge.*

220 (Endorsed:) Gen. No. 344; Circuit Court of the United States, district of Celorado; St. Louis Smelting and Refining Company, plaintiff in error, *vs.* Sarah Ray *et al.;* appeal bond; $250.00; filed in the Circuit Court U. S. this 8 day of Jan'y, A. D. 1880; (signed) Edward F. Bishop, clerk.

And the said writ of error is hereto attached, to wit:

221 *Writ of Error to Circuit Court U. S., District of Colorado.*

UNITED STATES OF AMERICA, *District of Colorado,* } *ss:*

The President of the United States to the Judges of the Circuit Court of the United States for the District of Colorado, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said Circuit Court, between The St. Louis Smelting and Refining Company and Sarah Ray, C. Christopher, C. A. Lack, and F. F. Brune, a manifest error hath happened, to the great damage of the said The St. Louis Smelting and Refining Company, as by its complaint appears: We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the eleventh day of October next, in the said Supreme Court, to be then and there held; that the record and pro-

ceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the law and custom of the United States should be done.

Witness the Hon. Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this eighth day of [SEAL.] January, in the year of our Lord one thousand eight hundred and eighty, and of the independence of the United States the 104th year.

EDWARD F. BISHOP, *Clerk.*

Allowed by—

MOSES HALLETT,
District Judge.

222 *Return.*

THE UNITED STATES OF AMERICA,
District of Colorado, } *ss:*

In obedience to the command of the within writ, I herewith transmit to the honorable Supreme Court of the United States a duly certified transcript of the record and proceedings in the within entitled case, together with all things concerning the same.

Witness my hand and the seal of said Circuit Court, at Den- [SEAL.] ver, in said district, this 28th day of January, A. D. 1880.

EDWARD F. BISHOP, *Clerk.*

(Endorsed:) Sup. Ct.; Supreme Court of the United States; St. Louis Smelting & Refining Co., plaintiff in error, *vs.* Sarah Ray *et al.;* writ of error to Circuit Court U. S., district of Colorado; Thomson & Sayer & G. G. Symes, attorney for plaintiff in error.

And thereupon the following citation was issued in said cause, to wit:

223 *Citation, U. S. Circuit Court.*

THE UNITED STATES OF AMERICA,
District of Colorado. }

The United States of America to Sarah Ray, C. Christopher, C. A. Lack, and F. F. Brune, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington on the eleventh day of October next, pursuant to a writ of error filed in the clerk's office of the Circuit Court of the United States for the district of Colorado, wherein The St. Louis Smelting and Refining Company is plaintiff in error, and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should

not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Moses Hallett, judge of the Circuit Court of the United States for the district of Colorado, this eighth day of January, in the year of our Lord one thousand eight hundred and eighty.

MOSES HALLETT, *District Judge.*

224 *Proof of Service.*

THE UNITED STATES OF AMERICA, } *ss:*
District of Colorado, }

On this 9th day of January, A. D. 1880, personally appeared Chas. W. Reitler before me, the subscriber, a clerk of the Circuit Court of the United States for the district of Colorado, and makes oath that he delivered a true copy of the within citation to V. D. Markham, one of the attorneys for the defendants in error, and left the same with him, at his office, in the city of Denver, Colorado.

CHAS. W. REITLER.

Sworn to and subscribed before me this 9th day of January, A. D. 1880.

EDWARD F. BISHOP, *Clerk.*

(Endorsed:) For S. Ct.; Circuit Court of the United States, district of Colorado; St. Louis Smelting & Refining Co., plaintiff in error, *vs.* Sarah Ray *et al.*, defendant in error; citation; Thomson & Sayer, G. G. Symes, attorney for plaintiff in error.

225 *Clerk's Certificate.*

UNITED STATES OF AMERICA, } *ss:*
District of Colorado, }

I, Edward F. Bishop, clerk of the Circuit Court of the United States for the district of Colorado, do hereby certify the above and foregoing to be a true, perfect, and complete transcript and copy of the record and proceedings heretofore filed and had and entered of record in said court, and in a certain cause lately in said court pending, wherein the Saint Louis Smelting and Refining Company was plaintiff and Sarah Ray *et al.* were defendants, as fully and completely as the same still remain filed and of record in my office.

In testimony to the above, I do hereunto sign my name and affix the seal of said court, at Denver, in the said district, this 28th day of January, 1880.

[SEAL.] EDWARD F. BISHOP, *Clerk.*

226 Clerk's fees: Preparing transcript, 563 fol. & cer., $56.65; map No. 1, $8.00; map No. 2, $5.00; paid by St. L. S. & R. Co., $69.65.

OFFICE SUPREME COURT U.S.
FILED
JAN 9 1882
JAMES H. MCKENNEY, CLERK

IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1881.

THE ST. LOUIS SMELTING AND REFINING CO.,
PLAINTIFF IN ERROR,
vs.
SARAH RAY, C. CHRISTOPHER, C. A. LOCK AND F. F. BRUNE,
DEFENDANTS IN ERROR.

No. 459.

In Error to Circuit Court, District of Colorado.

Brief of R. G. INGERSOLL,

FOR DEFENDANT IN ERROR.

WASHINGTON, D. C.:
R. O. POLKINHORN, PRINTER.
1882.